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**SELECTED SPEECHES
ON THE CONSTITUTION**

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Edited by
CECIL S. EMDEN



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VII
THE PEOPLE
THEIR RIGHTS

LIBERTY OF THE PRESS

LORD HARDWICKE

*House of Lords, 12 February 1739**(10 Parl. Hist. 1330 ff.)*

[THE occasion of this speech was a debate on the steps to be taken in respect of a satire reflecting on the character of several members of the House of Lords. The circumstances would not have been regarded as ground for proceeding in respect of breach of privilege a few decades later. But the remarks of the Lord Chancellor on the liberty of the Press are, none the less, interesting. Cf. Nos. 60 and 63.]

My Lords, the liberty of the Press is what I think ought to be sacred to every Englishman, and, I dare answer for it, will ever be so to your Lordships. But, my Lords, though the liberty of the Press is in every body's mouth, yet I am afraid, there is nothing less understood than the nature of that liberty. My Lords, I have often desired an opportunity of delivering to your Lordships my sentiments, with regard to the liberty of the Press; and, as that expression has been mentioned in this debate, I think I cannot have a fairer opportunity of doing it than the present: but I hope your Lordships, beforehand, will acquit me of any affectation to appear singular upon this occasion. I do assure you, my Lords, I shall speak my sentiments, and what occurs to me from the most mature reflection I am able to make upon the nature of our Constitution and Government.

The liberty of the Press, my Lords, is by most people, I know, taken for a liberty to publish every indecency of any kind, against the most respectable persons, and the highest characters; and so strongly does this notion prevail, that a libeller is no sooner prosecuted, than a cry is immediately set up, that the liberty of the Press is

endangered. But, my Lords, give me leave to say, that, if the liberty of the Press consists in defamation, it were much better we were without any such liberty. My notion, my Lords, is that the words, 'The Liberty of the Press,' are improperly used, to express a right, which is peculiar to the Press, of publishing to the world any defamatory matter to the prejudice of superior, inferior, or equal. My Lords, the laws and Constitution of England know of no such liberty; for that would be a liberty destructive of all laws and all constitutions. How these words came to prevail, was, my Lords, in my opinion, in this manner: before the art of printing was known in Europe, learning was confined to a very few. At that time, the transcribers and copiers of books were a very considerable body of men, and were under particular regulations by law. When printing was discovered, these restrictions fell of course, and then every man was at liberty to communicate, at an easy expence, his labours and thoughts upon any subject to the whole world. This, my Lords, was found so very convenient, that thence arose the words, 'The Liberty of the Press.' That this is the natural original to these words, my Lords, will appear from considering the nature of our laws, with regard to defamatory libels before printing was discovered, compared with what it is now. My Lords, before the discovery of printing, very strong statutes were made against defamation, which very statutes are still in force; and no man, my Lords, will shew me any one statute upon this head, that was in force before the discovery of printing, which has been since repealed. From this, my Lords, I think it is evident, that by the expression, 'The Liberty of the Press,' can never be understood any liberty which the Press acquired, and which was unknown before the discovery of printing. This, I hope, your Lordships will find a fair and just way of reasoning; and indeed, the only way on which we can reason on this subject. If any body, my Lords, is of opinion, that authors acquired any new privileges or liberties when printing was discovered, he ought to prove, my Lords, either that the old statutes on that subject were

repealed, or that new ones were made in its favour; which, I will venture to say, no man can do.

It is true, my Lords, that in some reigns, very great restraints have been laid upon the Press, and very great severities have been inflicted on authors and printers, for publishing that which would now pass current. But this never proves that the laws relating to defamation were bad laws; it only proves that they were abused by power. I am very sensible, my Lords, of how much use the Press was at the time of the Revolution; but the authors who wrote at that time on the side of liberty, advanced nothing that was not agreeable to the Constitution; they were warranted by law for what they wrote, and they had the sense of the nation on their side. Besides, my Lords, there is a great difference betwixt an author's writing on a speculative subject, on which he thinks he has something to communicate that may be of service to the world, and an author's falling foul on all mankind because they are not of his way of thinking. The authors on the side of the Revolution, my Lords, communicated their sentiments with the greatest deference to the persons and characters of their superiors, unmixed with personal calumnies, or virulent reflections. Therefore, my Lords, it is a groundless cry against the Government, when a libeller is punished, to compare the conduct of this Government to that before the Revolution, unless those gentlemen can prove, to the satisfaction of a jury, that they write with as much caution, and with as much decency, as the writers who in the reigns of King Charles 2, and King James 2, wrote on the principles of liberty.

RELIGIOUS LIBERTY

CHARLES JAMES FOX

*House of Commons, 8 May 1789**(28 Parl. Hist. 28 ff.)*

[SEVERAL attempts were made, about the period of this debate, to repeal the Test and Corporation Acts, which had the effect of disqualifying from certain public positions those whose religious opinions diverged from the tenets of the Established Church. Fox, speaking in favour of a motion for repeal, discussed the relation of Church and State.]

The first question which naturally presents itself is, whether the Church and the Constitution are necessarily connected and dependent on each other, and in what degree? And, on this point, I trust the House will be careful how they assent to the proposition of the noble Lord [Lord North]. For my part, I shall not scruple most unequivocally to declare that I conceive that religion should always be distinct from civil government and that it is not otherwise connected with it than as it tends to promote morality among the people, and thus conduces to good order in the State. No human Government has a right to inquire into private opinions, to presume that it knows them, or to act on that presumption. Men are the best judges of the consequences of their own opinions, and how far they are likely to influence their actions; and it is most unnatural and tyrannical to say, 'As you think, so you must act. I will collect the evidence of your future conduct from what I know to be your opinions'. The very reverse of this is the rule of conduct which ought to be pursued. Men ought to be judged by their actions, and not by their thoughts. The one can be fixed and ascertained, the other can only be a matter of speculation. So far am I of this opinion that, if any man publishes his

political sentiments, and says in writing that he dislikes the Constitution of this country, and gives it as his judgment that principles in direct contradiction to the Constitution and Government are the principles which ought to be asserted and maintained, such an author ought not, in my judgment, on that account to be disabled from filling any office, civil or military; but, if he carried his detestable opinions into practice, the law would then find a remedy, and punish him for his conduct, grounded on his opinions, as an example to deter others from acting in the same dangerous and absurd manner.

No proposition can, I contend, prove more consonant to common sense, to reason and to justice, than that men should be tried by their actions and not by their opinions; their actions ought to be waited for, and not guessed at, as the probable consequence of the sentiments which they are known to entertain and to profess. If the reverse of this doctrine was ever adopted as a maxim of government, if the actions of man were to be prejudged from their opinions, it would sow the seeds of jealousy and distrust, it would give scope to private malice, it would sharpen the minds of men against one another, incite each man to divine the private opinions of his neighbour, to deduce mischievous consequences from them, and thence to prove that he ought to incur disabilities, and be fettered with restrictions. This, if true with respect to political, is more peculiarly so with regard to religious opinions; and, from the mischievous principle which I have described, flows every species of party zeal, every system of political intolerance, every extravagance of religious hate.

In this position, that the actions of men, and not their opinions, are the proper objects of legislation, I am supported by the general tenor of the laws of the land. History, however, affords one glaring exception, in the case of the Roman Catholics. The Roman Catholics, or more properly speaking, the Papists, as the noble Lord has very justly called them . . . have been supposed by our ancestors to entertain opinions which might lead to mischief against the State. But was it their religious opinions

that were feared? Quite the contrary. Their acknowledging a foreign authority paramount to that of the Legislature; their acknowledging a title to the Crown superior to that conferred by the voice of the people; their political opinions, which they were supposed to attach to their religious creed, were dreaded, and justly dreaded, as inimical to the Constitution. Laws, therefore, were enacted to guard against the pernicious tendency of their political, but not their religious opinions, and the principle thus adopted, if not founded on justice, was at least followed up with consistency. Their influence in the State was feared, and they were not only restricted from holding offices of power and trust, but rendered incapable of either purchasing lands, or acquiring influence of any kind. But, if the Roman Catholics of those times, and not the Roman Catholics of the present day, were Papists, in the strictest sense of the expression, even upon this ground I should hold myself justified in declaring that the Legislature ought not to have acted against them until, by carrying into practice some of the dangerous doctrines which they were thought to entertain, they had rendered themselves obnoxious to those penalties which, in the case of such a perpetration, it threatened to inflict. Disability and punishment ought to have followed, but not to have anticipated, offence.

Those who attempt to justify the disabilities imposed on the Dissenters must contend, if they argue fairly on their own ground, not that their religious opinions were inimical to the Established Church, but that their political opinions were inimical to the Constitution. If they fail to prove this, to deprive the Dissenters of any civil or political advantage is a manifest injustice; for it is not sufficient to say to any set of men, 'We apprehend certain dangers from your opinions, we have wisely provided a remedy against them, and you who feel yourselves aggrieved, calumniated, and proscribed by this remedy, must prove our apprehensions are ill founded.' The *onus probandi* lies on the other side; for whoever demands that any other person should be laid under a restriction, it is

incumbent on him first to prove that the restriction is necessary to his safety by some overt act, and that the danger which he apprehends is not imaginary but real. To such a ground as this the noble Lord in the blue ribbon has not endeavoured to advance; but, on the contrary, has expressed himself concerning the Dissenters in terms the most liberal and handsome. For what reason? Because he feels that encomiums of this nature must be considered as a candid adherence to true propriety, and to the principles of common justice. He knows that they have been steady in their attachment to government; that their religious opinions are favourable to civil liberty, and that the true principles of the Constitution have been remembered and asserted by them, at times when they were forgotten, perhaps betrayed, by the Church.

Such has been the character of the Dissenters. Are their political opinions now different from what they have been at any one preceding era? Are they more formidable from their numbers, more dangerous from their principles, more considerable in any respect, except, perhaps, from the talents of some of their members? No assertion of this kind has been ever made; and the noble Lord, finding their exclusion from an equal participation of power with their fellow subjects a topic on which it was impossible for him to serve his cause, has entered on a more pleasing theme; a panegyric on the Church of England, which, he said, had shared the dangers and the fate of the State, had sunk and risen with the Constitution, and therefore ought to be peculiarly endeared to us. I feel no difficulty in acknowledging the justice of this encomium; but I cannot consent to adopt the conclusion—that the happiness of the State is dependent on the flourishing state of the Church; for who that peruses the history of those dangers which the Church has shared in common with the State, but must see that the Church might have been triumphant when the State was in ruin? Is it seriously to be contended that religion depends on political opinions; that it could subsist only under this or that form of government? It is an irreverent and impious

opinion to maintain, that the Church must depend for support as an engine or ally of the State, and not on the evidence of its doctrines, to be found by searching the scriptures, and the moral effects which it produces on the minds of those whom it is its duty to instruct. . . .

With regard to the Test Act, I think that the best argument which can be used in its favour is that, if it has but little good effect, it has also little bad. In my opinion, it is altogether inadequate to the end which it has in view. The purpose of it is to protect the Established Church by excluding from office every man who does not declare himself well affected to that Church. But a professed enemy to the hierarchy might go to the communion table, and afterwards say that, in complying with a form enjoined by law, he had not changed his opinion, nor, as he conceived, incurred any religious obligation whatever. There are many men, not of the Established Church, to whose services our country has a claim. Ought any such man to be examined before he comes into office, touching his private opinions? Is it not sufficient that he does his duty as a good citizen? May he not say, without incurring any disability, 'I am not a friend to the Church of England, but I am a friend to the Constitution, and on religious subjects must be permitted to think and act as I please.' Ought our country to be deprived of the benefit which she may derive from the talents of such men, and His Majesty prevented from dispensing the favours of the Crown, except to one description of his subjects? But whom do the tests exclude? the irreligious man, the man of profligate principles, or the man of no principle at all? Quite the contrary; to such men the road to power is open; the test excludes only the man of tender conscience; the man who thinks religion so distinct from all temporal affairs that he holds it improper to profess any religious opinion whatever for the sake of a civil office. Is a tender conscience inconsistent with the character of an honest man? or does a high sense of religion show that he is unfit to be trusted? . . .

It has been said that in France it is customary for

Protestants to be employed in the army and in civil offices, and that, in Protestant countries abroad, Papists are also employed. For the purpose of invalidating this remark, the noble Lord has given an ingenious and able answer; but let it be examined. The noble Lord has said that the monarch of a free country is limited, while the employing whom the prince pleased is one of the trivial advantages incidental to absolute power. Let not, then, Great Britain be the last to avail herself of such an advantage. Wisdom has been described as the offspring of freedom; and should a people, who boast of their freedom, and amongst whom, I firmly believe, men of enlightened understandings are more common than among those who live under a less happy form of government, reject those liberal principles of toleration which other nations have adopted? It is upon such a ground that, addressing myself to the Church of England in particular, I feel myself justified in accosting her, as a friendly adviser, in language to this effect:

‘Tuque prior, tu parce, genus qui ducis Olympo!’

And surely the Church of England ought, if possible, more than any other ecclesiastical establishment upon earth, practically to inculcate the glorious idea that indulgence to other sects, the most candid allowance for the diversity of their opinions, and a sincere zeal for the advancement of mutual charity and benevolence, are the truest and the happiest testimonies which she can give of the divine origin of her religion.

RELIGIOUS LIBERTY
CHARLES JAMES FOX

House of Commons, 11 May 1792

(29 *Parl. Hist.* 1372 ff.)

[IN introducing a motion for the repeal of certain penal statutes respecting religious opinions, Fox discussed the general principles of toleration. After a long period, during which the penal statutes were unchallenged in Parliament, but were rendered to some extent nugatory by Indemnity Acts, several efforts were made, in 1787 and the following years, to deal with the scandals of persecution, which still remained in the letter, if not in the practice of the law.]

The subject I mean to bring forward is one on which much has been written, and with regard to which, abstractedly considered, almost all mankind agree; this is toleration. All agree that toleration is in itself abstractedly just. But difficulties have arisen in the minds of some persons, though in my own there never have; these difficulties have arisen as to the application of the principles of toleration. Much of this difficulty was thrown in my way when I formerly moved for the repeal of the Test and Corporation Acts. I appeal to those who opposed me at that time, whether they did not do so upon the ground I have stated. They alleged that, though toleration itself abstractedly was a matter of justice, yet to extend it at that time, under the then existing circumstances, to the persons on whose behalf I urged it, was politically unsafe. I am now, therefore, ready to confess, although I lament the necessity of it, that for the present I have abandoned the idea of a repeal of the Corporation and Test Acts. I shall, however, not fail to renew that application whenever I shall have the least encouragement or prospect of success.

It has been said by some persons that, although toleration is of itself abstractedly a matter of justice, yet, that in political speculation it should never be allowed to intrench upon, or endanger existing establishments. The converse of this appears to me to be the true policy, and that no defence of any establishment whatever should be built on principles repugnant to toleration. Toleration is not to be regarded as a thing convenient and useful to a State, but a thing in itself essentially right and just. I, therefore, lay it down as my principle, that those who live in a State where there is an establishment of religion [i.e. Established Church] can fairly be bound only by that part of the establishment which is consistent with the pure principles of toleration. What are those principles? On what were they founded? On the fundamental, unalienable rights of man. It is true there are some rights which man should give up for the sake of securing others in a state of society. But it is true also that he should give up but a portion of his natural rights in order that he may have a government for the protection of the remainder. But to call on man to give up his religious rights is to call on him to do that which is impossible. I will say that no State can compel it; no State ought to require it, because it is not in the power of man to comply with that requisition.

But there are those who say, although a man could not help his opinions, yet that, unless under certain restrictions, they ought not to be made public; for that whatever rights a man naturally has, he gives them all up when he comes into society, and that therefore religious liberty, among the rest, must be modified for the good of society; so that by the liberty of man is meant nothing more than that which is convenient to the State in which he lives, and under this idea penalties on religion are deemed expedient. This I take to be a radical error, and for the reason I have assigned already—that it is not in the power of man to surrender his opinion, and therefore the society which demands him to make this sacrifice demands an impossibility. What, then, does this lead to? That no man shall be deprived of any part of his liberty, with

respect to his opinions, unless his actions derived from such opinions are clearly prejudicial to the State.

There are three different situations in which a man may be placed in regard to religion—a total indifference to it, as was the case with the pagan world before Christianity was known, and also with those who do not now believe it. Upon this I refer the House to the *History of the Decline and Fall of the Roman Empire*, written by an hon. gentleman who was once a member of this House; he said that persecution in the pagans was less criminal than in Christians, because the pagans had not the same doctrines that the Christians have to teach them the principles of toleration. Another situation that diminished the cruelty of persecution, or rather rendered it less criminal, was a state of popery; for these deluded persons, in the time of bigotry, thought that, by persecuting those who differed from them, they were serving the cause of truth and justice; that God had inspired them with the true religion, and that they were serving him while they were destroying their fellow beings: although these practices were deplorable, yet, as they were the mere effects of ignorance, the principle on which they proceeded diminished the criminality of persecution. The third state is that in which we now are. The people of this country are neither indifferent about religion, nor are they blindly attached to any particular faith; they are not pagans, nor popish bigots. For us there is no excuse for persecution. We know full well that religion is founded on a principle that should not, cannot, be subject to any human power. There is a maxim which has been a thousand and a thousand times repeated, and yet by some as often forgotten, although there are not two opinions as to its propriety and justice, 'Do as you would be done by'. Will the members of the establishment be tried by this maxim? Will they submit to be governed by principles which they themselves inculcate; or will they proudly and impiously say that they are sure theirs is the only true religion, and that all who deviate from it are devoted to eternal torment?

In this country we are governed by King, Lords, and

Commons. No man will contend that any of these powers is infallible? Then why do the members of the established church proceed as if they are infallible? for so they do, if they claim exclusive privileges and enforced penalties on those who differ from them. Upon what principle is an establishment to be maintained at all? It is upon the principle of its being agreeable to the opinion of the majority of the people, and not, surely, upon the slightest pretence of infallibility. The members of the establishment should say to those who differ from them: 'You who differ from, as well as you who agree with us, are equal in rights, and have an equal title to enjoyments. We are neither pagans nor Papists. We have learned to do as we would be done by. If we were to persecute you for your opinions, we should, for aught we know to the contrary, be persecuting truth instead of falsehood. Come, then, let us each enjoy the freedom of our own mind, and equally participate of all social enjoyments.'

Persecution is a word so odious, and toleration a word so generally embraced, that two opinions are not entertained on either; and yet, strange to tell, much difference has arisen upon the application of them. The question, then, seems first to be, what really is to be understood by toleration? I think that, in defining this word, and conveying the ideas which I annex to it, I ought to go much farther than proving that it means the total absence of persecution, and that to refuse to any man any civil right, and an equal participation of civil advantage, on account of his religious opinions, is in itself, persecution.

On these general principles I trust that it is not necessary to dilate farther. The question now is, what is, and what is not toleration. In my own opinion toleration ought to go beyond abstinence from persecution; but on my own opinion alone I do not rely. I will quote the sentiments of a very eminent man, Archdeacon Paley, who had declared himself to be a friend to complete toleration to all Dissenters. The reverend divine, however, meant more than it is my intention at present to propose. My motion I confess to be limited. A future and a fitter

period may be found to introduce a measure whose verge would be more ample, more extensive, and consequently more complete.

Many persons opposed unlimited toleration from an apprehension that it might prove injurious to the State. To such I beg leave to say that they ought first to be well convinced that it really would produce that effect. The most moderate and the most enlightened men in this country, and those, too, members of the establishment, are friends to general toleration. Indeed, the right hon. the Chancellor of the Exchequer [William Pitt] himself last year stood pledged to support the principle of general toleration, and has said that it is a matter not of favour, but of right, and that whether it should be granted is only a question of justice.

What is the principle of persecution? The condemnation of a man before he has committed a breach of the law. A principle which compels us to live in a constant state of hypocrisy towards God and man; for it calls on those who do not believe in the doctrines of the Church of England to give a constant attendance at divine service, and subscribe to the ceremonies of the Church. This is commanding hypocrisy by authority. It is ordaining by law that a man shall pursue that form of religion here which, in his mind, is to insure his eternal damnation hereafter. By this we say to a father—‘You shall not teach your son that religion which in your soul you believe is to secure his eternal happiness. You are to choose, either to teach him no religion at all, or to teach him that by which you believe he will be damned to eternity.’ This is the true spirit of persecution. And is it the fact? Most unquestionably it is the case in the law with regard to Catholics. In the opinion of some there once was an occasion for these statutes; in my opinion, there never was, nor would they have been adequate to the end proposed if there had; but now there is not the shadow of excuse, for it has ceased. The most dangerous periods, the reigns of Elizabeth and James, did not justify even one of the penal statutes that exist. If such

times, therefore, did not justify them, what argument can be used for their existence now?

Sometimes attempts are made to defend the principle of persecution by considering it as a mode of preventing the mischief that may arise from a propagation of erroneous religious opinions; it is alleged that it is the business of a statesman to consider the effect of any religious opinion, and in that view, whatever appears to him as dangerous to the State, he ought to prevent. The first part of this doctrine, namely, that of assuming any mode of religion to be wrong, is begging the question; but I must protest against the whole of this mode of argument. We have no right to construe what actions are to follow opinions. We should weigh actions before we pretend to judge of them at all. In order that we may guess what actions are likely to follow opinions, we should ourselves first have entertained those opinions; or, if we guess at all, we ought to guess on the favourable side. But, it is said, there are no commands in the Church which may not safely be obeyed; or at least the Church of England is the safeguard of the State. Is it the fact? Is it possible for a man to become a very bad citizen, even by implicitly obeying the doctrine of the Church of England itself? Most unquestionably it is; for the Church of England teaches us that we are to make no resistance to the commands of the magistrate, although they should be unlawful, or even unnatural; the doctrine is passive obedience and non-resistance, and consequences were to be left to a future state; this is the doctrine of James 2nd; this, it is true, is not now the law, but it is still the doctrine of the Church, and thus, by being a good churchman, a person may become a bad citizen. What is the result of all this? That, as in the established church there is so much error that it cannot be obeyed totally without breach of moral obligation and even of positive law (for a man may be punished for obedience to the illegal commands of a legal master), it is the essence of injustice to persecute any person for omitting to conform to this established religion. . . .

It has been observed by some, and will perhaps be advanced to-night, that as far as regards the Catholics at least persecution is at an end, from the Bill which passed lately in their favour. . . . I believe that, if the House were to speak out fairly, there would be less objection, on constitutional sentiments, to the admission of Catholics into it than Dissenters. For myself, I object to neither; but I believe that those who do object fear more the principles of Dissenters who have, than those of Catholics who have not, the right of sitting in this House; the one class are supposed to be republicans, the other are distinguished for an attachment to monarchy. The truth is that there is no just or rational objection to either, and the effect of exclusion is hurtful to the community; for a man's virtues and abilities are the objects we ought to look to; his attachment to the welfare of the country, and not his speculative opinions upon religion, ought to entitle him to a seat in this House, or in any other office that may be serviceable to the State. Indeed, all these absurd, as well as unjust, prohibitory statutes are very destructive to the public welfare.

RIGHT OF PUBLIC MEETING

CHARLES JAMES FOX

*House of Commons, 10 November 1795**(32 Parl. Hist. 281 ff.)*

[DEBATE on leave to bring in the Seditious Meetings Bill. Cf. Nos. 59, 62, and 66 to 68.]

Sir, I hope this Bill will never come into this House. I am not friendly to any thing that will produce violence. Those who know me will not impute to me any such desire; but I do hope that this Bill will produce an alarm; that while we have the power of assembling, the people will assemble; that while they have the power, they will not surrender it, but come forward and state their abhorrence of the principle of this proceeding; and those who do not, I pronounce to be traitors to their country. Good God, Sir, what madness, what frenzy has overtaken the authors of this measure! I will suppose for a moment that the only object which they have in view is the preventing a revolution in this country. But that they should have proceeded upon a plan which has no regard for the liberty of the people, no regard for the glorious efforts of our ancestors, no regard for their maxims, no esteem for the principles and the conduct which have made us what we are, or rather, if this Bill be countenanced, what we were, is to me astonishing! For to proceed thus, in order to suppress or prevent popular tumults, appears to me to be the most desperate infatuation.

Good God, Sir! We have seen and have heard of revolutions in different states. Were they owing to the freedom of popular opinions? Were they owing to the facility of popular meetings? No, Sir, they were owing to the reverse of these; and therefore I say, if we wish to avoid the danger of such revolutions, we should put ourselves in a state as different from them as possible. What

are we now doing? Putting ourselves in a condition nearly resembling the periods when these revolutions happened. In the reign of Charles 1st, the most interesting period to which we can look in the history of this country, was freedom of speech indulged to any latitude; or were libels suffered to pass without notice? On the contrary, were not both, at that time, punished with an extraordinary degree of rigour? Is it the intention of Ministers, by these arbitrary measures, to bring the country into the same disastrous situation in which it was plunged during that unhappy reign? It might have been hoped, that the impressive lessons of modern times, and of events still fresh in their consequences, had not yet been forgotten. Look to France before the period of her revolution. Was it the facility of public meetings, or the freedom of discussion granted to the subject, that tended to produce that great change? On the contrary, was it not the absolute prerogative of the King? Was it not the arbitrary power lodged in Ministers? Was it not the oppressive privilege of issuing *Lettres de Cachet* against all who dared to utter their sentiments, and complain of existing grievances, that excited the indignation of the people, and accelerated the downfall of the monarchy? If, therefore, one view on which the present measure is held out to your acceptance, be in order to prevent the troubles arising from the frequency of popular assemblies, on that very ground ought the friends of peace and of order to resist the adoption of the measure. In countries where men may openly state their grievances and boldly claim redress, the effect of their complaints and remonstrances may, indeed, for a time be obstructed by the operation of ministerial corruption and intrigue; but perseverance must ultimately be effectual in procuring them relief. But if you take away all legal means of obtaining that object, if you silence remonstrance and stifle complaint, you then leave no other alternative but force and violence. These are means so dreadful in their effects that it may be matter of question whether any good they produce can possibly compensate for the evils with which they are

necessarily attended; such means as scarcely even the best cause can justify.

Let us examine a little closely the argument on which so much stress is laid, namely, the danger that may arise from a popular discussion of grievances. If the pretext of grievances be groundless, and not warranted by any immediate pressure, the more it is discussed, the less effect it will have in exciting discontent. But if you preclude these political humours, if I may so call them, from having a vent, you then leave no alternative but unconstitutional submission, or actual violence. If ever there exists a just cause of grievance, one or other must be adopted; a tame acquiescence, incompatible with the spirit of freedom, or an open resistance, subversive of the order of government. I know that peace and quiet are the greatest of all blessings, but I know also, that rational liberty is the only security for their enjoyment. I admire the British Constitution, because it gives scope to the people to exercise the right of political discussion; not merely with the permission of a magistrate, or under the control of an executive force, but on all occasions to state, in bold and plain words, the grievances which they feel, and the redress which they desire. I have only now to express my firm determination to oppose the Bill in every stage of its progress. And in the first instance, I shall conceive it necessary to move for a call of the House, as it is impossible for me to suffer a question, which involves so material an alteration of the Constitution, to pass in this House, without solemnly calling on every member to give a vote on the discussion.

RIGHT OF PUBLIC MEETING

CHARLES JAMES FOX

*House of Commons, 22 May 1797**(33 Parl. Hist. 618 ff.)*

[DEBATE on Fox's motion for repeal of the Treason and Sedition Acts.]

It is a manifest axiom in a popular government, that man has the fundamental right to state his opinion; this right must be recognized, since it was on the exercise of this right that the government itself was formed. Need I illustrate the doctrine? It is recognized in the Bill of Rights. No man will deny that the right of petition to Parliament is as inherent to the people of England as the right of petition to the Crown. Why, then, did not the Bill of Rights state the one as well as the other? Why, but because the one had been attacked and questioned, not the other: and it has been truly said of the Bill of Rights, that it only asserted the privileges which had been outraged; it did not enumerate all the rights which had not come into dispute.

But it is said, that this is not the first instance in which difficulties have been thrown in the way of petition; and reference is made to the act of Charles 2nd, in which distinction is made between assemblies convoked by the sheriff, persons entitled to the elective franchise, and other persons. No argument, in my mind, can be so dangerous as that which raises distinctions as to the right of petition. To say that those only enjoy the right of petition who possess the elective franchise, is to bring it into danger; good sense would make the argument go the other way; for surely if any description of persons more than another ought to enjoy the right of petition, it is those persons who, having no vote at elections, have no representatives in this House to whom they

can directly apply, and who may be made the organ of their sentiments. But I deprecate and deplore these distinctions, since every class of the community ought to have this right secured to them, and be made as free to this privilege as to the air they breathe.

This Act [for the prevention of seditious meetings] is outrageous, because it throws difficulties in the way of the exercise of the right, and enables sheriffs to prevent meetings; and it has been proved, that since the passing of this Act more refusals have been given by magistrates than in any former period. This has been particularly the case since recent calamities have disposed the country to assemble so generally to petition for the dismissal of Ministers. Very extraordinary reasons have been assigned by some of them for refusing to convoke meetings. The sheriff of Suffolk refused, because the subject had been debated in parliament, and because he was going to London. Another magistrate refused, though called upon by a numerous body of persons, because he would not disturb the unanimity of the county. The power of dispersing meetings is as obnoxious as the refusal to convoke them. In the county in which I live, the sheriff, after putting the question, said there was a visible majority of votes, but because he did not know whether they were all freeholders that were present, he refused to sign the proceedings, and give validity to the record. Another person on this capricious objection could not take the chair, because the sheriff had the power to disperse the meeting; and thus an attempt was made to defeat the petition in the county of Surrey, even under the colour of complying with the statute. In many other cases difficulties have been found that make it vexatious, and almost impossible, to exercise this right under the provisions of this Act.

It requires so much trouble to comply with all the provisions of the Act, where the meeting is not called by the regular magistrate, that it is next to an impossibility to carry the exercise of the right generally into effect. In some instances, where zeal and perseverance had conquered every obstacle, inconveniences were suffered that

would deter men on ordinary occasions from assembling. In Westminster, for instance, where the meeting was called in strict conformity to the Act, the day of meeting was most unfavourable in point of weather, but it was found inconvenient to adjourn, because they must have renewed all the formalities required by the statute.

And what is the benefit expected to be derived from all this? Are provisions like these likely to alter the minds of men? Are they calculated to prevent communication, and stifle the opinions and discontents of a people? If it were a new and an abstract question, there might, perhaps, be a difference of opinion upon the subject; but unfortunately, a book is laid open to us, in which we may read, in most legible characters, the true character and consequences of such a measure—that book is the kingdom of Ireland. In the year 1794 a Convention Bill was passed in Ireland to prevent meetings of the people. What was the consequence? Ministers boasted of the success of the measure: they flattered themselves they had succeeded in preventing meetings; but I have now the authority of the Parliament of Ireland for saying that what they had prevented publicly had been done in private; and that ever since the year 1791 meetings of the people had been held, which, up to the year 1795, were small and insignificant—small, because up to that time they still had the power of meeting in public, and discussing their grievances openly, and without reserve. Up to the year 1794, then, they were small and harmless—but then comes the Convention Bill, that forces them into clandestine and secret meetings by midnight; then comes correspondence with the foreign enemy, and all the terrifying and alarming plots which the report of the House of Lords of Ireland has ascribed to the people of that distracted country.

What deplorable ignorance of the human heart to think that, by a mere Convention Bill to prevent the meetings without redressing grievances, they could make men forget by making them silent! What criminal ignorance to conceive that, by damming up a torrent, it would

not force its way in another direction! But it seems that, as our Act has not yet produced the same effects in England, we must not go for instruction to the sister kingdom. I see no sense in any such argument: human nature is the same in all countries; if you prevent a man who feels himself aggrieved from declaring his sentiments, you force him to other expedients for redress. Do you think that you gain a proselyte where you silence a disclaimer? No; you have only, by preventing the declaration of grievances in a constitutional way, forced men to more pernicious modes of coming at relief. In proportion as opinions are open, they are innocent and harmless.

Opinions become dangerous to a State only when persecution makes it necessary for the people to communicate their ideas under the bond of secrecy. Do you believe it possible that the calamity which now rages in Ireland would have come to its present height, if the people had been allowed to meet and divulge their grievances? Publicity makes it impossible for artifice to succeed, and designs of a hostile nature lose their danger by the certainty of exposure.

But it is said that these Bills will expire in a few years; that they will expire when we shall have peace and tranquillity restored to us. What a sentiment to inculcate! You tell the people, that when every thing goes well, when they are happy and comfortable, then they meet freely, to recognize their happiness, and pass eulogiums on their Government; but that in a moment of war and calamity, of distrust and misconduct, it is not permitted them to meet together, because then, instead of eulogizing, they might think proper to condemn ministers. What a mockery is this! What an insult to say that this is preserving to the people the right of petition! To tell them that they shall have a right to applaud, a right to rejoice, a right to meet when they are happy, but not a right to condemn, not a right to deplore their misfortunes, not a right to suggest a remedy! I hate these insidious modes of undermining and libelling the Constitution of the country. If you mean to say that the mixed and

balanced government of England is good only for holidays and sunshine, but that it is inapplicable to a day of distress and difficulty, say so. If you mean that freedom is not as conducive to order and strength as it is to happiness, say so; and I will enter the lists with you, and contend that, among all the other advantages arising from liberty, are the advantages of order and strength in a supereminent degree, and that too, in the moment when they are most wanted. Liberty is order. Liberty is strength. Good God, Sir, am I, on this day, to be called upon to illustrate the glorious and soothing doctrine? Look round the world and admire, as you must, the instructive spectacle! You will see that liberty not only is power and order, but that it is power and order predominant and invincible; that it derides all other sources of strength; that the heart of man has no impulse, and can have none that dares to stand in competition with it; and if, as Englishmen, we know how to respect its value, surely the present is the moment of all others, when we ought to secure its invigorating alliance.

Whether we look at our relative situation with regard to foreign powers, with regard to the situation of the sister kingdom, and with regard to our own internal affairs, there never was a moment when national strength was so much demanded, and when it was so incumbent upon us to call forth and embody all the vigour of the nation, by rousing, animating, and embodying all the love of liberty that used to characterize the country, and which, I trust, is not yet totally extinct. Is this a moment to diminish our strength, by indisposing all that part of the nation whose hearts glow with ardour for their original rights, but who feel with indignation that they are trampled upon and overthrown? Is not this a moment when, in addition to every other emotion, freedom should be roused as an ally, a supplementary force, and a substitute for all the other weak and inefficient levies that have been suggested in its stead? Have we not been nearly reduced to a situation, when it was too perilous, perhaps, to take the right course? May we not be again

called upon for exertions that will demand the union of every hand and every heart in the kingdom? What might not this House do, if this House had the opinion of the country with it? Do not let us say, then, that we are to increase the force of the country by stifling opinion. It is only by promoting it, by giving facility to its expression, by meeting it with open hearts, by incorporating ourselves with the sense of the nation, that we can again revive that firm and compact power of British strength, that sprung out of British liberty.

LIBERTY OF THE PRESS

*RICHARD BRINSLEY SHERIDAN**House of Commons, 6 February 1810**(15 Parl. Deb., 1 s., 340 ff.)*

[DEBATE on the suggested amendment of the Standing Order of the House of Commons relating to the exclusion of Strangers from the House on particular occasions. 'Strangers' included the press-reporters. Cf. Nos. 39 to 44.]

My right hon. Friend [Mr. Windham] has called me a counsel for the Press. . . . I am proud of the appellation. But I confess that I was a good deal surprised when he put in his claim to a share of the distinction. He has, by implication, questioned the use of the liberty of the Press! Can he have been serious? Give me but the liberty of the Press, and I will give to the minister a venal House of Peers—I will give him a corrupt and servile House of Commons—I will give him the full swing of the patronage of office—I will give him the whole host of ministerial influence—I will give him all the power that place can confer upon him to purchase up submission and overawe resistance; and yet, armed with the liberty of the Press, I will go forth to meet him undismayed; I will attack the mighty fabric he has reared with that mightier engine; I will shake down from its height corruption, and bury it beneath the ruins of the abuses it was meant to shelter.

My only object in the motion which I have submitted to the House is, not to prevent any individual member from clearing the gallery, but to require that, after he had done so, he should condescend to give some reason for the step. The right hon. Gentleman opposite said it was his humour. That is the very thing of which I complain. If, after the exclusion of strangers, the House

should acquiesce in the propriety of the motives for that exclusion, the public would then be satisfied.

To some of the opinions of my right hon. Friend I have listened with the greatest regret, and even horror. For the first time in my life I have almost wished that the public had been excluded from hearing his opinions. . . . He has asserted a broad general principle that the publication of the proceedings of Parliament is injurious to the country. He has declared that, when the doors of the gallery of this House are closed, the country has done well. I am not one of those who think or speak despondingly of the situation, or degradingly of the character of the country. On the contrary, I am of opinion that Great Britain stands on a proud eminence, struggling as she is, and successfully struggling as I hope she will be, for the liberties of the world. To what is it owing that she is able to maintain such a contest, and bid defiance to that powerful enemy, who has already overthrown every power against which he has directed his victorious arms, and trampled upon the rights and independence of the prostrate nations of Europe? All this I can attribute to the liberty of the Press alone, and most particularly and emphatically to the unrestrained publication of the debates and proceedings of Parliament.

My right hon. Friend has asked how such publication can produce any public benefit, or conduce to the well-being or happiness of the nation? To this I would answer, by shewing to the people the grounds upon which public measures are resorted to, and particularly by convincing them of their necessity; thus inducing the public to submit with patience to the heaviest burthens that have ever been imposed upon a nation. He has adverted to the state of the country in former times, when the Press was bound in fetters, and the terrors of the Court of Star Chamber blighted every germ of freedom. But I would tell him that publicity given to all public measures, and especially to great measures of finance, in modern times, has been the principal, if not the sole means of reconciling the nation to a weight of taxes, which in these boasted

periods of former excellence would neither have been thought of, nor supposed likely to be borne or endured by the country.

I am sorry to hear my right hon. Friend resorting to a topic, which I must be allowed to denominate the old bugbear, when I find him gravely asserting that the practice of reporting the proceedings of this House, which has grown up of late, is likely to encourage revolutionary doctrines, or lead to a revolution. Can it for a moment be supposed that the people of this country, possessing the blessings of freedom, and in the enjoyment of all the benefits of their Constitution, can, by reading the debates in this House, be induced to get rid of these blessings and this Constitution? Yet he has thought proper to state that the freedom of the Press, as acted upon in latter times, would, in all probability, reduce this country to the same dreadful state of convulsion and disorder in which France was involved during the period of her late sanguinary revolution. Is it, I ask, the liberty of the Press that brought France into that dreadful state of anarchy and ruin, which characterised the revolution? Is it not, on the contrary, the suppression of all liberty of discussion—the prohibition of all publications not sanctioned by the permission of authority—the prevention of that rational and temperate consideration of public interests and measures, which alone can excite and nourish patriotic feelings and public spirit, that has caused all the mischiefs which attended that revolution? What is it that has caused the downfall of all the nations of Europe? Is it the liberty of the Press? No: it is the want of that salutary controul upon their governments, that animating source of public spirit and national exertion. If the liberty of the Press had existed in France before or since the revolution—if it had existed in Austria—if in Prussia—if in Spain, Buonaparté would not now find himself in the situation to dictate to Europe, and filling the throne of nearly an universal monarch.

SECURITY AGAINST UNLAWFUL
IMPRISONMENT*SIR SAMUEL ROMILLY**House of Commons, 26 February 1817**(35 Parl. Deb., 1 s., 735 ff.)*

[DEBATE on First Reading of the Habeas Corpus Suspension Bill.]

I will not long occupy the attention of the House, but I cannot prevail upon myself to give a silent vote upon the most important question that has been discussed since I have had a seat in Parliament.

All parties are agreed upon the inestimable value of that part of the Constitution which it is proposed for a time to annul; and there are few that deny that at present great evils exist, and that those evils require a speedy remedy. The question is, therefore, reduced to a very narrow compass, viz. Is this a case in which it is necessary to have recourse to such a remedy, and is the remedy adapted to the nature of the evils?

The first point must depend upon a preliminary question, whether other means have been duly resorted to, and whether those means have failed of success? The noble Lord has repeatedly declared that the utmost vigilance of Ministers has been exerted; but it is now quite clear, from subsequent intelligence, that that utmost vigilance in truth amounts to nothing. It is admitted by the noble Lord that these traitorous designs have been proceeding for a considerable time before the aid of Parliament was required; yet, although Ministers have been fully apprized of the attempts upon the loyalty, the morals, and the religion of the people; though they have been in possession of the libellous and blasphemous publications so industriously circulated among the lower orders; yet, up to the present moment, not a single

prosecution has been instigated against the authors. The excuse of the Attorney-General for this procrastination is most extraordinary and curious: in truth, he said, the libels laid before him were so numerous that he could not see where prosecutions were to end. Where they were to end I do not pretend to decide; but it is not very difficult to determine where they ought to have begun. The libels may be numerous, but, if they are, nothing has been publicly known of them till lately; and the more numerous the more urgent was the necessity that some of the authors should be severely punished, as a terror and an example to the rest.

I entreat the House to recur once more to the consideration of all that occurred, previous to the suspension of the Habeas Corpus Act in 1794. Very different then was the conduct of the Government, for that measure was not suggested to the House until after prosecutions had been instituted for sedition at every quarter-sessions in all corners of the Kingdom. At that period, at least Parliament was not required to suspend the rights of the subjects of the Crown until recourse had been had to the existing laws. . . .

As to the question, whether this suspension is adapted to the existing evils, the only individual who has contended that it is so is the hon. Member who spoke last: he contended that, as sufficient evidence cannot be procured to convict, it is, therefore, proper to give Ministers unlimited power to imprison. As the delinquent cannot be brought to trial, he is to be punished without it. On the contrary, I contend that this measure is in no way calculated to meet the evil.

The Government can fix upon no individual of leading influence or talent, whose arrest will check the progress of disaffection, and defeat the operations of the minor agents: all are alike insignificant, and the extent to which the infection has spread, and is spreading, is the real evil. Will the imprisonment of two or three poor wretches prevent the diffusion of the poison through all the intricate ramifications, by which it is conveyed to the public

mind? If, indeed, they are publicly tried, regularly convicted, and exemplarily punished, something would be gained—others would be deterred, for the fact would be known; but the mere unheard-of confinement of two or three mechanics would effect nothing in stopping the active mischief of particular individuals.

In 1794 the state of things was widely different in another respect; then no petitions were presented humbly praying that Parliament should reform itself; but a convention existed to serve as a substitute for Parliament. In 1799 it [the Act] was again suspended, but the country was then threatened with invasion; the disaffected then refused to acknowledge any Parliament at all, and in its place substituted the National Assembly of France, which boasted of its secret and active correspondence with this country. The object then was not to reform, but to supersede Parliament.

Much as I censure the adoption of this measure now, I am not one of those who think that the Habeas Corpus Act ought never to be suspended; under some circumstances the suspension might be wise and necessary; and those circumstances have existed when, on former occasions, persons of great consequence and influence were in league with an enemy, and when their arrest paralyzed the traitorous designs of all their dependants. But is such the case at present? Where can Ministers find one man of influence or consequence among the disaffected of our day? Where can they find even a man of the middle rank of life, among the vulgar, ignorant, and deluded wretches against whom Ministers are about to launch their vengeance? How then can this suspension be useful, unless indeed this Government follows the example of a State it has recently supported, against the avowed wish of the people, in which not merely obnoxious individuals, but the inhabitants of whole villages and towns, have been thrown into dungeons. Is not this, I confidently demand, a most powerful reason for refusing what is now required? Will the House intrust Ministers with a power by which persons of low rank and obscure occupations,

in shoals, will be placed at the mercy of every truckling informer? . . .

It is impossible to calculate upon the abuses to which the measure may be subject; and at its expiration the Minister will only have to come down to the House with a Bill of Indemnity, and his responsibility will be at an end. Our ancestors have never consented to the suspension of the Habeas Corpus Act but in cases of extreme danger; and the proposal is now the more alarming on account of the precedent it would establish. It is now for the first time laid down that under any circumstances of alarm the rights of Englishmen are to be dispensed with. Yet, in the years 1767 and 1768, when, according to the letters of Dr. Franklin, great distress, unusual scarcity, and alarming riots prevailed, no person ever dreamt of suspending the Habeas Corpus Act. Now, however, in time of profound peace, it is contended that the race of Englishmen is so degenerate that they are incapable of their own protection; and, in consequence of their weakness and pusillanimity are willing to make a voluntary sacrifice of their dearest rights into the hands of His Majesty's Ministers. True it is that dangers threaten the country; but I would ask, is there no danger in empowering a few individuals to imprison all the rest of the subjects of the Crown, and that too without the slightest responsibility? Is there no danger in this suspension, when the standing army is so overgrown, and when already the Government possesses more influence than it has ever before enjoyed? Is there no danger even to general liberty, when foreign States, already sufficiently disposed to check its growth, should see this once free country placed under the absolute dominion of its Ministers on account of the absurd schemes of a few miserable Spenceans? Is there no danger in public opinion, and that even to Ministers themselves? Are they well assured that this measure will have, in truth, the effect of strengthening their weak hands? Will not the people see through the artifice of those who, under pretence of public security, are only endeavouring to secure them-

selves? In every point of view, I think the suspension objectionable: the dangers may be great, but the existing laws have not yet been tried; and, if tried, I am convinced that they will be found sufficient for every purpose of national protection.

RIGHT OF PUBLIC MEETING

GEORGE CANNING

*Liverpool, 18 March 1820**(Speeches of George Canning at Liverpool, pp. 304 ff.)*

[DURING 1819 the campaign of mass meetings in provincial towns was intense. At the end of that year the Six Acts were passed, one of them dealing with public meetings by confining them, broadly speaking, to gatherings of inhabitants in their own localities.]

Rights are, in the same individual, to be compared with his duties; and rights in one person are to be balanced with the rights of others. Let us take this right of meeting in its most extended construction and most absolute sense. The persons who called the meeting at Manchester tell you, that they had a right to collect together countless multitudes to discuss the question of Parliamentary reform: to collect them when they would and where they would, without consent of magistrates, or concurrence of inhabitants, or reference to the comfort or convenience of the neighbourhood. May not the peaceable, the industrious inhabitant of Manchester say, on the other hand, 'I have a right to quiet in my house; I have a right to carry on my manufactory, on which not my existence only and that of my children, but that of my workmen and their numerous families depends. I have a right to be protected in the exercise of this my lawful calling. I have a right to be protected, not against violence and plunder only, against fire and sword, but against the terror of these calamities, and against the risk of these inflictions; against the intimidation or seduction of my workmen; or against the distraction of that attention and the interruption of that industry, without which neither they nor I can gain our livelihood. I call upon the laws to afford me that protection; and, if the laws in this

country cannot afford it, depend upon it, I and my manufactures must emigrate to some country where they can.' Here is a conflict of rights, between which what is the decision? Which of the two claims is to give way? Can any reasonable being doubt? Can any honest man hesitate? Let private justice or public expediency decide, and can the decision by possibility be other, than that the peaceable and industrious shall be protected,—the turbulent and mischievous put down?

But what similarity is there between tumults such as these and an orderly meeting, recognized by the law for all legitimate purposes of discussion or petition? God forbid, that there should not be modes of assembly by which every class of this great nation may be brought together to deliberate on any matters connected with their interest and their freedom. It is, however, an inversion of the natural order of things, it is a disturbance of the settled course of society, to represent discussion as everything, and the ordinary occupations of life as nothing. To protect the peaceable in their ordinary occupations is as much the province of the laws, as to provide opportunities of discussion for every purpose to which it is necessary and properly applicable. The laws do both: but it is no part of the contrivance of the laws, that immense multitudes should wantonly be brought together, month after month, and day after day, in places where the very bringing together of a multitude is of itself the source of terror and of danger.

It is no part of the provision of the laws, nor is it the spirit of them, that such multitudes should be brought together at the will of unauthorised and irresponsible individuals, changing the scene of meeting as may suit their caprice or convenience, and fixing it where they have neither property, domicile, nor connexion. The spirit of the law goes directly the other way. It is, if I may so express myself, eminently a spirit of corporation. Counties, parishes, townships, guilds, professions, trades, and callings form so many local and political subdivisions, into which the people of England are distributed by the

law; and the pervading principle of the whole is that of vicinage or neighbourhood; by which each man is held to act under the view of his neighbours; to lend his aid to them, to borrow theirs; to share their councils, their duties, and their burdens; and to bear with them his share of responsibility for the acts of any of the members of the community of which he forms a part.

Observe, I am not speaking here of the reviled and discredited statute law only, but of that venerable common law to which our reformers are so fond of appealing on all occasions, against the statute law by which it is modified, explained, or enforced. Guided by the spirit of the one, no less than the letter of the other, what man is there in this country who cannot point to the portion of society to which he belongs? If injury is sustained, upon whom is the injured person expressly entitled to come for redress? Upon the hundred, or the division in which he has sustained the injury. On what principle? On the principle that as the individual is amenable to the division of the community to which he specially belongs, so neighbours are answerable for each other. Just laws, to be sure, and admirable equity, if a stranger is to collect a mob which is to set half Manchester on fire; and the burnt half is to come upon the other half for indemnity, while the stranger goes off unquestioned, to excite the like tumult and produce the like danger elsewhere.

That such was the nature, such the tendency, nay, that such, in all human probability, might have been the result of meetings like that of the 16th of August, who can deny? Who that weighs all the particulars of that day, comparing them with the rumours and the threats that preceded it, will dispute that such might have been the result of that very meeting, if that meeting, so very legally assembled, had not, by the happy decision of the magistrates, been so very illegally dispersed?

It is, therefore, not in consonance, but in contradiction of the spirit of the law, that such meetings have been holden. The law prescribes a corporate character. The callers of these meetings have always studiously avoided

it. No summons of freeholders—none of freemen—none of the inhabitants of particular places or parishes—no acknowledgment of local or political classification. Just so at the beginning of the French Revolution: the first work of the reformers was to loosen every established political relation, every legal holding of man to man; to destroy every corporation, to dissolve every subsisting class of society, and to reduce the nation into individuals, in order, afterwards, to congregate them into mobs.

Let no person, therefore, run away with the notion that these things are done without design. To bring together the inhabitants of a particular division, or men sharing a common franchise, is to bring together an assembly, of which the component parts act with some respect and awe of each other. Ancient habits, which the reformers would call prejudices; preconceived attachments, which they would call corruption; that mutual respect which makes the eye of a neighbour a security for each man's good conduct, but which the reformers would stigmatize as a confederacy among the few for dominion over their fellows:—all these things make men difficult to be moved, on the sudden, to any extravagant and violent enterprise. But bring together a multitude of individuals, having no permanent relation to each other,—no common tie, but what arises from their concurrence as members of that meeting, a tie dissolved as soon as the meeting is at an end;—in such an aggregation of individuals there is no such mutual respect, no such check upon the proceedings of each man from the awe of his neighbour's disapprobation; and, if ever a multitudinous assembly can be wrought up to purposes of mischief, it will be an assembly so composed.

How monstrous is it to confound such meetings with the genuine and recognized modes of collecting the sense of the English people! Was it by meetings such as these that the Revolution was brought about, that grand event, to which our antagonists are so fond of referring? Was it by meetings in St. George's-fields? in Spafields? in Smithfield? Was it by untold multitudes collected in a

village in the north? No! It was by the meeting of corporations, in their corporate capacity;—by the assembly of recognized bodies of the State;—by the interchange of opinions among portions of the community known to each other, and capable of estimating each other's views and characters. Do we want a more striking mode of remedying grievances than this? Do we require a more animating example? And did it remain for the reformers to strike out the course by which alone Great Britain could make and keep herself free?

Gentlemen, all power is, or ought to be, accompanied by responsibility. Tyranny is irresponsible power. This definition is equally true, whether the power be lodged in one or many;—whether in a despot, exempted by the form of government from the control of law; or in a mob, whose numbers put them beyond the reach of law. Idle, therefore, and absurd, to talk of freedom where the mob domineers! Idle, therefore, and absurd, to talk of liberty, when you hold your property, perhaps your life, not indeed at the nod of a despot, but at the will of an inflamed, an infuriated populace! If therefore, during the reign of terror at Manchester, or at Spafields, there were persons in this country who had a right to complain of tyranny, it was they who loved the Constitution, who loved the Monarchy, but who dared not utter their opinions or their wishes until their houses were barricaded, and their children sent to a place of safety. That was tyranny! and, so far as the mobs were under the control of a leader, that was despotism! It was against that tyranny, it was against that despotism, that Parliament at length raised its arm.

All power, I say, is vicious that is not accompanied by proportionate responsibility. Personal responsibility prevents the abuse of individual power: responsibility of character is the security against the abuse of collective power, when exercised by bodies of men whose existence is permanent and defined. But strip such bodies of these qualities, you degrade them into multitudes, and then what security have you against anything that they may

do or resolve, knowing that, from the moment at which the meeting is at an end, there is no human being responsible for their proceedings? The meeting at Manchester, the meeting at Birmingham, the meeting at Spafields or Smithfield, what pledge could they give to the nation of the soundness or sincerity of their designs? The local character of Manchester, the local character of Birmingham was not pledged to any of the proceedings to which their names were appended. A certain number of ambulatory tribunals of the people, self-elected to that high function, assumed the name and authority of whatever place they thought proper to select for a place of meeting; their rostrum was pitched, sometimes here, sometimes there, according to the fancy of the mob, or the patience of the magistrates; but the proposition and the proposer were in all places nearly alike; and when, by a sort of political ventriloquism, the same voice had been made to issue from half-a-dozen different corners of the country, it was imprudently assumed to be a concord of sweet sounds, composing the united voice of the people of England!

Now, Gentlemen, let us estimate the mighty mischief that has been done to liberty by putting down meetings such as I have described. Let us ask, what lawful authority has been curtailed; let us ask, what respectable community has been defrauded of its franchise; let us ask, what municipal institutions have been violated by a law which fixes the migratory complaint to the spot whence it professes to originate, and desires to hear of the grievance from those by whom that grievance is felt;—which leaves to Manchester, as Manchester, to Birmingham, as Birmingham, to London, as London, all the free scope of utterance which they have at any time enjoyed for making known their wants, their feelings, their wishes, their remonstrances;—which leaves to each of these divisions its separate authority,—to the union of all or of many of them the aggregate authority of such a consent and co-operation; but which denies to an itinerant hawker of grievances the power of stamping their names

upon his wares:—of pretending, because he may raise an outcry *at* Manchester or *at* Birmingham, that he therefore speaks the sense of the town which he disquiets and endangers; or, still more preposterously, that because he has disquieted and endangered half-a-dozen neighbourhoods in their turn, he is, therefore, the organ of them all, and, through them, of the whole British people.

Such are the stupid fallacies which the law of the last session has extinguished! and such are the object and effect of the measures which British liberty is not to survive!

LIBERTY OF THE PRESS

*EDWARD LYTTON BULWER (afterwards Lord Lytton)**House of Commons, 21 August 1835**(30 Parl. Deb., 3 s., 836 ff.)*

[BULWER's speech was in support of his motion for the repeal of the stamp duties on newspapers.]

The whole expression of public opinion, in a periodical shape, is at present confined to the narrowest oligarchy that ever disgraced a free country. No man can publish a newspaper—that is, no man can write periodically upon the news of the day, or the debates in Parliament, or any domestic or foreign affairs—without paying fourpence upon every sheet in the shape of a tax. The result is that the legal market is altogether confined to great capitalists, and exclusive monopolists, while a large and cheap market is opened to smugglers. . . .

It is absurd to talk about the liberty of the Press in England so long as the taxes on knowledge continue as at present—it is in vain to make holyday speeches about it, saying 'it is the very air we breathe, and if we have it not, we perish', when the Press is the only means of expressing the opinions of which the condition is a large capital and the result a severe monopoly.

It has been urged that, if the newspaper Press is rendered cheap, it will become bad and worthless, and that, if the market is widened, the commodity will be deteriorated. Why, if this argument were used as to any other article of trade, a man would be set down as an idiot. If a dozen persons only were allowed to sell spectacles, and a proposition was made to allow every person to sell them, would not the statesman who told you that in that case spectacles would be good for nothing deserve to be laughed at? . . .

If you look at the large newspapers which circulate

among the great mass of the people, you will find in them the most varied information, the most argumentative writing, and a great freedom from private calumny, vulgar slander, and personal abuse. But it may be said—If you make the Press free, many dangerous and revolutionary political doctrines may be published. Doubtless there will be, as now, doctrines of all sorts—the good and the bad. But who is to decide what is good and what bad? Some hon. Members on the other side of the House tell us that the doctrines of the present Government are revolutionary and dangerous; whereas, from what I have heard this very night, if I were asked what doctrines were most likely to weaken the just influence of the Crown, separate the different classes, incense the people, and produce and hasten the course of revolution—I should say it was the doctrine of the Conservatives.

Who, then, shall decide the question as to what is good and what is bad—what is useful, and what is revolutionary? None can do so: scarcely time itself can decide it. In the words of an able writer: 'Truth requires no inscription to distinguish it from darkness; and all that Truth wants is the liberty of expression.'

Has not the terror of the propagation of dangerous doctrines been used against the progress of enlightenment? Is it not for this that censors have been placed upon books, and inquisitors upon opinions? What effect have these prosecutions produced? The French Court prohibited the works of Voltaire, and Voltaire became at once endowed with the power to shake old opinion to its centre. Geneva burnt the Social Contract of Rousseau, and out of its ashes arose the phoenix of its influence. Tom Paine had not sold ten copies of his notorious work, when the English Government thought fit to prosecute him, and within a week from that period there were sold 30,000 copies. Government never has prevented, and never can prevent, the propagation of dangerous doctrines by prohibitions, either in the shape of a tax or a law—the only effect of persecution is to render the doctrines more dangerous and the people

more eager to learn it. If I want a new proof of the truth of this argument, do I not find it in the very tax I ask you to repeal? For how many years have you been endeavouring to put down the unstamped Press, whose doctrines are alleged to be dangerous, and for how many years has it enjoyed impunity, and deluged every manufacturing town? The market has been literally overstocked with its productions. If you were to repeal the whole tax tomorrow, there would not be a single new publication of these dangerous inflammatory doctrines, for during the last seven or eight years every one who wished to publish them has done so with impunity. By the imposition of the tax upon the more respectable class, you have prevented any reply to these dangerous publications. You have given up the field to those who have sown it with noxious weeds, and prevented the good husbandman from labouring in it. You are now at last embarked in an obstinate war with the unstamped Press—a war in which I am sure you will not succeed. I ask the right hon. Gentleman [the Chancellor of the Exchequer], does he think for a moment that he can succeed so long as the tax is 200 per cent. upon the articles smuggled? My right hon. Friend is aware, better than myself, that the only way to diminish smuggling, where it has risen to an enormous height, is to reduce the tax, and that is what I now urge upon my right hon. Friend.

'THE CIVIL RIGHTS OF THE PEOPLE'

BENJAMIN DISRAELI (*afterwards Earl of Beaconsfield*)

House of Commons, 12 July 1839

(49 *Parl. Deb.*, 3 s., 246 ff.)

[DEBATE on a motion in regard to the Chartists' National Petition. Disraeli, after having made his protest against the indifference with which members in general treated the petition, voted with the majority, in favour of rejection.]

I cannot believe that a movement which, if not national, is yet most popular, can have been produced by those common means of sedition to which the noble Lord [Lord John Russell] has referred. Unquestionably there is more or less of a leaven of sedition mixing itself up with all popular commotions; but I cannot believe that a petition signed by considerably upwards of 1,000,000 of our fellow-subjects could have been brought about by those ordinary means which are always in existence and which, five, ten, or fifteen years ago, were equally powerful in themselves, without producing any equal results.

It has been supposed that the basis of this movement is strictly economical. I have great doubts of that, because I find that where there are economical causes for national movements they lead to tumult, but seldom to organisation. I admit also, on the other hand, that this movement has not been occasioned by any desire of political rights. Political rights have so much of an abstract character, their consequences act so slightly on the multitude, that I do not believe they can ever be the origin of any great popular movement. But there is something between an economical and a political cause which may be the spring of this great movement, as the noble Lord must himself admit it to be. It may be mistaken, but all must confess that it is considerable.

The real cause of this, as all real popular movements, not stimulated by the aristocracy, and which, if not permanent, are still of material importance, has existed in an apprehension on the part of the people that their civil rights were invaded. Civil rights partake, in some degree, of an economical and, in some degree, certainly of a political character. They conduce to the comfort, the security, and the happiness of the subject; and, at the same time, are invested with a degree of sentiment which mere economical considerations do not involve.

Now, I maintain that the civil rights of the people of England have been invaded. There has been undoubtedly, perhaps with no evil intention, perhaps from a foolish desire of following a false philosophy, and applying a system of government not suited to the character of this country, and borrowed from the experience of another—there has been, from whatever motive, an invasion of the civil rights of the English people of late years; and I believe the real cause of this movement is a sentiment on the part of the people of England that their civil rights have been so invaded. That sentiment has doubtless been taken advantage of by trading agitators, but it is participated in by many more than agitators, and that discontented minority which must ever exist in all countries.

I am not one of those who ascribe the People's Charter, as it is called, to the new Poor Law; but, at the same time, I believe that there is an intimate connexion between the two. I ascribe the Charter and the new Poor Law to the same origin to which we owe many evils we now experience, and many more with which we are menaced, the consequences of which, if I am not much mistaken, may yet be severely felt by persons superior to those who have signed this petition. The origin of this movement in favour of the Charter dated about the same time that you passed the Reform Bill. I am not going to entrap the House into any discussion on the merits of the Constitution you have destroyed and of that which has replaced it. I have always said that I believe its character was not understood by those who assailed it, and perhaps

not fully by those who defended it. All will admit this—the old Constitution had an intelligible principle, which the present has not. The former invested a small portion of the nation with political rights. Those rights were entrusted to that small class on certain conditions—that they should guard the civil rights of the great multitude. It was not even left to them as a matter of honour; society was so constituted that they were entrusted with duties which they were obliged to fulfil. You have transferred a great part of that political power to a new class, whom you have not invested with those great public duties.

Great duties can alone confer great station, and the new class which has been invested with political station has not been bound up with the great mass of the people by the exercise of social duties. For instance, the administration of justice, the regulation of parishes, the building of roads and bridges, the command of the militia and police, the employment of labour, the distribution of relief to the destitute—these were great duties which, ordinarily, have been confined to that body in the nation which enjoyed and exercised political power. But now we have a class which has attained that great object which all the opulent desire—political power without the conditions annexed to its possession, and without fulfilling the duties which it should impose. What is the consequence? Those who thus possess power without discharging its conditions and duties are naturally anxious to put themselves to the least possible expense and trouble. Having gained that object, for which others were content to sacrifice trouble and expense, they are anxious to keep it without any appeal to their pocket, and without any cost of their time. To gain their objects they raise the cry of cheap government—that served the first: to attain the second they call for the constant interference of the Government. But I contend they cannot have a cheap and centralized Government and maintain at the same time the civil rights of the people of England.

I believe this is the real cause of the Charter; a large body of the people have found out that their civil rights

had been invaded. You have invaded their civil rights. The new Poor Law Act is an invasion of their civil rights. You cannot deny that you have based that new Poor Law upon a principle that outraged the whole social duties of the State—the mainstay, the living source of the robustness of the commonwealth. You teach the destitute not to look for relief to those who are their neighbours, but to a distant Government stipendiary. You teach the unfortunate labourer that he has no legal claim to relief—that the relief he should receive must be an affair of charity; and I believe that the discontent such alterations have occasioned is really the *vis inertiae* of which the active sedition of the country has availed itself—this movement for the Charter. . . .

I admit that the prayer of the National Petition involves the great fallacy of supposing that social evils will be cured by political rights; but the fallacy is not confined to these poor Chartists. I never pass an evening in this House that I do not hear some honourable gentleman say that the people are starving, and that the only remedy is household suffrage or some such *nostrum*. Is that proposition less absurd than the prayer of this petition which has been so severely criticised by the noble Lord? The petitioners demand annual Parliaments; but whether a man calls for annual or triennial Parliaments, undoubtedly the change applied for is great in either case, and I do not think the noble Lord is justified in speaking in terms of derision. At least, it is futile to attempt drawing the line between the requirements of the petition and the suggestions of some of his own supporters. The fact, however, is, although the opinions of some of the supporters of the noble Lord's Government may be somewhat in advance of his own, they are still supposed to be perfectly compatible with the exercise of political powers by that class he has created, by whose influence he has obtained place, and with whose assistance he still hopes to retain power.

But, if the noble Lord supposes that in this country he can establish a permanent Government on what is styled

nowadays a monarchy of the middle classes, he will be indulging a great delusion, which, if persisted in, must not only shake our institutions, but will endanger the Throne. I believe such a system is actually foreign to the character of the people of England. I believe that, in this country, the exercise of political power must be associated with great public duties. The English nation will concede any degree of political power to a class making simultaneous advances in the exercise of the great social duties. . . .

I am not ashamed to say, however much I disapprove of the Charter, I sympathise with the Chartists. They form a great body of my countrymen; nobody can doubt they labour under great grievances, and it would indeed have been a matter of surprise and little to the credit of this House if Parliament had been prorogued without any notice being taken of what must always be considered a very remarkable social movement.

PROTECTION OF BRITISH SUBJECTS ABROAD

LORD PALMERSTON

House of Commons, 25 June 1850

(112 *Parl. Deb.*, 3 s., 381 ff.)

[DEBATE on a motion disapproving the Ministry's conduct of foreign policy and, in particular, in regard to the degree of protection to be given to British subjects abroad. Palmerston's speech was his most famous, and one of the best remembered of the nineteenth century. It was eulogized even by his political opponents. Peel said it 'made us proud of the man who delivered it'. The motion was lost by 46 votes.]

Now, the Resolution of the House of Lords involves the future as well as the past. It lays down for the future a principle of national policy, which I consider totally incompatible with the interests, with the rights, with the honour, and with the dignity of the country; and at variance with the practice, not only of this, but of all other civilised countries in the world. Even the person who moved it was obliged essentially to modify it in his speech. But none of the modifications contained in the speech were introduced into the Resolution adopted by the other House. The country is told that British subjects in foreign lands are entitled—for that is the meaning of the Resolution—to nothing but the protection of the laws and the tribunals of the land in which they happen to reside. The country is told that British subjects abroad must not look to their own country for protection, but must trust to that indifferent justice which they may happen to receive at the hands of the Government and tribunals of the country in which they may be.

The House of Lords has not said that this proposition is limited to constitutional countries. The House of Lords has not said that the proposition is inapplicable,

not only to arbitrary and despotic countries, but even to constitutional countries where the courts of justice are not free; although these limitations were stated in the speech. The country is simply informed by the Resolution, as it was adopted, that, so far as foreign nations are concerned, the future rule of the Government of England is to be, that, in all cases, and under all circumstances, British subjects are to have that protection only, which the law and the tribunals of the land in which they happen to be, may give them.

Now, I deny that proposition; and I say it is a doctrine on which no British Minister ever yet has acted, and on which the people of England never will suffer any British Minister to act. Do I mean to say that British subjects abroad are to be above the law, or are to be taken out of the scope of the laws of the land in which they live? I mean no such thing; I contend for no such principle. Undoubtedly, in the first instance, British subjects are bound to have recourse for redress to the means which the law of the land affords them, when that law is available for such purpose. That is the opinion which the legal advisers of the Crown have given in numerous cases; and it is the opinion on which we have founded our replies to many applications for our interposition in favour of British subjects abroad. And allow me, at the first moment when I have occasion to mention the legal advisers of the Crown, to say, that I heard with pain aspersions cast from a quarter from which they ought not to have come, upon the person who is the legal adviser of the office which I have the honour to hold. I should have thought that a person who by his own experience must have known, not only the learning, but the independence of mind, and the sense of justice that characterise the distinguished individual who holds the office of Queen's Advocate, would have abstained from those aspersions which have been cast upon that meritorious officer.

Perhaps I may have deviated from the strict orders of the House in what I have said; but I felt it due to an

honourable-minded man to give my testimony on the earliest occasion that presented itself, to the independence and integrity of his character.

I say then, that, if our subjects abroad have complaints against individuals, or against the Government of a foreign country, if the courts of law of that country can afford them redress, then, no doubt, to those courts of justice the British subject ought in the first instance to apply; and it is only on a denial of justice, or upon decisions manifestly unjust, that the British Government should be called upon to interfere. But there may be cases in which no confidence can be placed in the tribunals, those tribunals being, from their composition and nature, not of a character to inspire any hope of obtaining justice from them. It has been said, 'We do not apply this rule to countries whose Governments are arbitrary or despotic, because there the tribunals are under the control of the Government, and justice cannot be had; and, moreover, it is not meant to be applied to nominally constitutional Governments, where the tribunals are corrupt'. But who is to be the judge in such a case, whether the tribunals are corrupt or not? The British Government, or the Government of the State from which you demand justice?

I will take a transaction that occurred not long ago, as an instance of a case in which, I say, the people of England would not permit a British subject to be simply amenable to the laws of the foreign country in which he happened to be. I am not going to talk of the power of sending a man arbitrarily to Siberia; nor of a country, the Constitution of which vests despotic power in the hands of the Sovereign. I will take a case which happened in Sicily, where not long ago a decree was passed, that any man who was found with concealed arms in his possession should be brought before a court-martial, and, if found guilty, should be shot. Now, this happened. An innkeeper of Catania was brought before a court-martial, accused under this law by some police officers, who stated that they had discovered in an open bin, in

an open stable in his inn-yard, a knife, which they denounced as a concealed weapon. Witnesses having been examined, the counsel for the prosecution stated that he gave up the case, as it was evident there was no proof that the knife belonged to the man, or that he was aware it was in the place where it was found. The counsel for the defendant said, that such being the opinion of the counsel for the prosecution, it was unnecessary for him to go into the defence, and he left his client in the hands of the court. The court, however, nevertheless pronounced the man guilty of the charge brought against him, and the next morning the man was shot.

Now, what would the English people have said if this had been done to a British subject? and yet everything done was the result of a law, and the man was found guilty of an offence by a tribunal of the country.

I say, then, that our doctrine is, that, in the first instance, redress should be sought from the law courts of the country; but that in cases where redress cannot be so had—and those cases are many—to confine a British subject to that remedy only, would be to deprive him of the protection which he is entitled to receive. . . .

I believe that the principles on which we have acted are those which are held by the great mass of the people of this country. I am convinced these principles are calculated, so far as the influence of England may properly be exercised with respect to the destinies of other countries, to conduce to the maintenance of peace, to the advancement of civilization, to the welfare and happiness of mankind.

I do not complain of the conduct of those who have made these matters the means of attack upon Her Majesty's Ministers. The Government of a great country like this, is undoubtedly an object of fair and legitimate ambition to men of all shades of opinion. It is a noble thing to be allowed to guide the policy and to influence the destinies of such a country; and, if ever it was an object of honourable ambition, more than ever must it be so at the moment at which I am speaking. For while

we have seen, as stated by the right hon. Baronet the Member for Ripon, the political earthquake rocking Europe from side to side—while we have seen thrones shaken, shattered, levelled; institutions overthrown and destroyed—while in almost every country of Europe the conflict of civil war has deluged the land with blood, from the Atlantic to the Black Sea, from the Baltic to the Mediterranean; this country has presented a spectacle honourable to the people of England, and worthy of the admiration of mankind.

We have shown that liberty is compatible with order; that individual freedom is reconcilable with obedience to the law. We have shown the example of a nation, in which every class of society accepts with cheerfulness the lot which Providence has assigned to it; while at the same time every individual of each class is constantly striving to raise himself in the social scale—not by injustice and wrong, not by violence and illegality—but by persevering good conduct, and by the steady and energetic exertion of the moral and intellectual faculties with which his Creator has endowed him. To govern such a people as this, is indeed an object worthy of the ambition of the noblest man who lives in the land; and therefore I find no fault with those who may think any opportunity a fair one, for endeavouring to place themselves in so distinguished and honourable a position. But I contend that we have not in our foreign policy done anything to forfeit the confidence of the country. We may not, perhaps, in this matter or in that, have acted precisely up to the opinions of one person or of another—and hard indeed it is, as we all know by our individual and private experience, to find any number of men agreeing entirely in any matter, on which they may not be equally possessed of the details of the facts and circumstances, and reasons, and conditions which led to action. But making allowance for those differences of opinion which may fairly and honourably arise among those who concur in general views, I maintain that the principles which can be traced through all our foreign transactions, as the

guiding rule and directing spirit of our proceedings, are such as deserve approbation. I therefore fearlessly challenge the verdict which this House, as representing a political, a commercial, a constitutional country, is to give on the question now brought before it; whether the principles on which the foreign policy of Her Majesty's Government has been conducted, and the sense of duty which has led us to think ourselves bound to afford protection to our fellow subjects abroad, are proper and fitting guides for those who are charged with the government of England; and whether, as the Roman, in days of old, held himself free from indignity, when he could say *Civis Romanus sum*; so also a British subject, in whatever land he may be, shall feel confident that the watchful eye and the strong arm of England will protect him against injustice and wrong.

RIGHT OF PUBLIC MEETING

JOHN BRIGHT

*House of Commons, 3 May 1867**(186 Parl. Deb., 3 s., 1957 ff.)*

[BRIGHT called the attention of the House to the proposed interference of the Government with a public meeting to be held in Hyde Park in connexion with the agitation for Reform.]

Where English people, English blood, and English-speaking people are found—whether in our colonies, in the United States, or in the United Kingdom—great meetings have never been found productive of breaches of the peace. I defy you to find anything in history to show that, as a rule, great public meetings have been attended with breaches of the peace in this country. One of the most signal instances of a breach of the peace was in 1819, in Manchester, where men met to ask for Reform and for a repeal of the Corn Laws. If there had been no interference with that meeting it would have been as tranquil as we are in this House at this moment. But because it was interfered with by blind, bigoted, foolish magistrates, whose conduct now every man in the county of Lancaster is ready to condemn, there was a breach of the peace and bloodshed. . . .

What is the duty of the Government in this matter? It is not a question that can be settled very wisely by legal quibbles and technicalities. I hold the duty of the Government to be this. To offer no kind of opposition to the peaceful entrance of the people into the Park, and when they are in the Park, to take no part whatever in endeavouring to prevent what I believe will be the legal proceedings of the day—the intended proceedings of the day. To have no thought whatever of judging of that meeting in any other way or in any other spirit than the police all over

the country have judged of the meetings that have been held throughout the country. I maintain, contrary to the feelings of some, that the character of the English people is guarantee for a peaceful issue on a day like that. In Birmingham, Leeds, Glasgow, Edinburgh, Newcastle and Manchester you can have these great meetings. It is quite impossible that there should be that difference between the temper of the people of the metropolis and the temper of the people in other great cities of the country—that while those in the country are perfectly harmless, those held in the metropolis are to be eminently hazardous and dangerous. In a meeting like this the people have a great national object connected immediately and directly with their class, and with measures now being discussed in this House. They will go there ennobled by the sentiments which animate them, and you may have a double reliance upon them that there will be nothing done about which any of their countrymen may be ashamed.

I hear hon. gentlemen sometimes speak of the President of the Reform League with feelings akin to contempt. I have gone through a deal of that. I have known hon. gentlemen on the other side of the House use strong language of me in public—I say nothing of what is said in private. Sometimes that language has been used to my face in this House, but oftener when I have not been present. There has been language of terrible abuse for my dangerous views in one year. I find them next year embodying those views in an Act of Parliament. I venture to say this of Mr. Beales—that there has never been connected with any political agitation in our time a more honourable man than he is. I judge from many years' personal, and some years' rather intimate acquaintance with him. I judge from what all those who know him best say of him, and I judge from the general conduct which he has pursued during the last two years when he has been prominent before the public in connection with a great agitation. He has suffered from that connection. He has been cut off from an honourable office; but he

stands upon the principles which he holds, and he endeavours to move in their direction legally and morally. He has now, as I know, the intense satisfaction of knowing that the right hon. Gentleman the Chancellor of the Exchequer and his colleagues are gradually dragging—it may be drawing, inviting, alluring, coaxing, coercing, or bringing in some way or other—the great Conservative Party of England into intimate alliance with him.

Sir, let me say this of the right hon. Gentleman the Home Secretary [Mr. Walpole]. I believe there is no man who ever filled the office which he does who was more anxious to perform its duties with moderation and with justice in all questions of the nature which I am now introducing to the House than he is. I am sure the right hon. Gentleman regretted the momentary turmoil that took place last year as much as I did, or any one of us did. I believe he will now act upon a wiser principle. That he will believe, as I believe, that almost every man who goes to this meeting in Hyde Park will consider himself the guardian of public liberty, and at the same time the protector of the public property. I shall be much surprised if there be harm done to anything within the Park. I believe this at any rate, that the character of the English people for a love of order will not be tarnished by the transactions of that day.

Sir, when I look at the difficulties of the right hon. Gentleman, the Chancellor of the Exchequer, who has so much labour with the contending parties of this House in connection with the Bill he has introduced, I say it ought to strengthen his hands, and to be to him, and to every man in favour of a settlement of this grand question, a pleasurable fact that there are millions of the metropolis of this Empire who can meet calmly, if not to discuss, at least to consider, the great question in which they are so much interested, and to lend their powerful aid to the attempts which are now made to introduce a large portion of the people to the privileges of our ancient and noble Constitution.

I say that it is the business of the House and of the

Government not to criticize this question too narrowly in a great emergency like this. The Law Officers of the Crown ought not to try and find a flaw in the claim of the people to meet in Hyde Park. They ought to be above quibbles of that nature. Let them rather consider the grandeur of the question and the grandeur of the hour. Let them consider the intense interests of the people. Let them consider that they are laying the foundation for future legislation and government. Then they will be thankful that there is a love of the Constitution strong enough, a love of order strong enough to enable this immense body of people to meet in their tens, twenties, or hundreds of thousands, for the purpose of peacefully assisting Parliament to arrive at an adjustment of this question.

RIGHT OF PUBLIC MEETING

*ROBERT THRESHIE REID (afterwards Lord Loreburn)**House of Commons, 1 March 1888**(322 Parl. Deb., 3 s., 1919 ff.)*

[DEBATE on a motion for an inquiry into the question of public meetings in the metropolis.]

No one disputes here, and I hope no one ever will dispute in the House—certainly I never shall—that it was not only right, but the absolute duty of the Government, to maintain order, and to put an end to meetings which became disorderly or assembled in a disorderly way. I think the Government would not be worth their salt if they did not interfere to prevent turbulence and to protect the public. That is a very different thing from saying that, because at one or two meetings in the course of forty years, symptoms of turbulence have been shown, therefore they are to issue a Proclamation putting an end to public meeting in Trafalgar Square altogether. If the Government merely confine themselves to saying that when the meetings exhibited symptoms of disorder such as would lead a man of ‘reasonably firm mind’ to apprehend disorder and tumult, they would stop those meetings, I should have no words but those of commendation to apply to their conduct; but what I do object to is saying that, after a long series of quiet and orderly meetings held in Trafalgar Square, because one or two were disorderly, the Government are to be at liberty to put an end to meetings being held there—to take advantage of some technical and legal argument to justify putting an end to the privilege that has been enjoyed for many years. . . .

In my view, valuable as is the right of open air public meeting in all parts of the country, it is exceptionally valuable in London; in the first place, because there are

few open spaces available where large meetings can be held, and again because those who are in the habit of attending these open air meetings are often so poor that they cannot go to the expense of employing public halls. Then again it is essential that the people of London shall have the right of open air meeting, because they have grievances which are most acute and affect enormous numbers of them. I will not, of course, enter into the question of what these grievances are. It will be sufficient to refer to the existence in London of vast multitudes of people honestly wishing for employment, but unable to obtain it. I know that this is a topic which enlists the sympathies of hon. members on all sides of the House. Then we have the fact that among the municipal authorities of London, some are corrupt and most are incompetent, and that there is no central Government in London at all. I need not refer to that which was the subject of debate the other night—such evils as the sweating system, under which people have their lives and almost their souls destroyed by working for starvation wages under insanitary and demoralizing conditions; and still less need I refer to that flagrant grievance in London—namely, that the dwellings in which the great part of the population reside have been condemned as a scandal to civilization over and over again within the last five years, not only in this House but by a Royal Commission; yet the evil is to-day as bad as it was five years ago, and, seemingly, will be as bad five years hence as it is now, unless a powerful agitation is got up in regard to it.

The question is whether, inasmuch as agitation cannot under the circumstances of the case be confined to meetings in large halls, the evils under which London has suffered are to be reformed by lawlessness or by constitutional methods. I think that within the last few years we have learned a good deal as to the consequences of refusing to listen to moderate agitation. We have come very near teaching the people in some parts of the country, notably in Ireland and in the Highlands of Scotland—and I trust we are not going to teach them the same thing

in London—the fatal lesson that mere remonstrance or attempt to constitutionally reform their grievances will do nothing until there has been some open defiance of the law which will arrest public attention and precipitate reform. The Government seems to me to have improved upon this lesson, because they are now adopting a course, the effect of which will be to put a stop on the part of a large portion of the population to the right of expressing their grievances at all, inasmuch as they cannot express them unless they are allowed to assemble in public meeting.

RIGHT OF PUBLIC MEETING

CHARLES BRADLAUGH

House of Commons, 1 March 1888(322 *Parl. Deb.*, 3 s., 1950 ff.)

[SEE note on No. 67.]

The right hon. Gentleman the Home Secretary has been good enough to give the House the limits of the right of public meeting, saying that meetings must be held for a lawful purpose in a place where the public have a right to meet. And then the right hon. Gentleman built on that definition the conclusion that Trafalgar Square is not a place where the public have such a right. I believe that Trafalgar Square is a thoroughfare and something more. It is also a place of public resort. It is not a thoroughfare for traffic over which carts and carriages may go; but it is like Hampstead Heath and Primrose Hill, a place where people may resort to amuse themselves or in the exercise of their political rights.

For the last fifty or sixty years progress without violence or collision has been possible in this country, because successive Governments, except, unfortunately, in Ireland, have allowed all sections of the community to express their opinions, however strong, with the greatest possible freedom. The agitation for the Charter, which might have been revolutionary, was thus a movement of reform, and the bulk of the points of the Charter are now the law of the land. There is scarcely any great reform which has not been achieved by the outside pressure of the people, and there have been many great crises in our history where the voice of the people has gone for truth, for peace, and for progress, when the Government of the moment was for war, for hindrance, and for retrogression. In the metropolis we have a population larger than

that of Scotland, and where are their buildings in which they can meet? They are too few and too costly. . . .

There is a population of over 4,000,000 and there ought to be some place where the people can assemble in the exercise of their political rights.

RIGHT OF ASSOCIATION

LORD LOREBURN

*House of Lords, 4 December 1906**(166 Parl. Deb., 4 s., 689 ff.)*

[LORD LOREBURN, as Lord Chancellor in the Campbell-Bannerman Ministry, moved the Second Reading of the Trade Disputes Bill in the House of Lords. The decision in the Taff Vale Case, which led up to the introduction of the Bill, is mentioned in the speech.]

Someone has said you never can understand anything in human affairs unless you understand how it grew, and I believe that to be true of this controversy. Trade unions are of old standing here, certainly 200 years. Until 1824 they were largely regulated by statute. After 1824, until 1871, they were principally left to the common law; and the tender mercies of the common law were cruel towards trade unions. Trade unions were held to be unlawful associations. A man could be indicted for belonging to them. It was held that strikes were unlawful transactions, and to such an extent did this penalising of these legitimate and useful associations proceed that it was decided in the year 1865 that a man could rob a trade union and embezzle its money with impunity.

These were great and heavy disabilities, but there was one thing that they could have for their advantage. In those dark days the funds of the trade unions were not liable to attack by any suitor in any Court. In the report of the Royal Commission [of 1869] there is an abstruse, and, if I may say so with great respect, a fine-spun discussion of the law upon that subject as it existed before 1871. The Royal Commission think that in theory the trade unions might be sued, but in practice it was impossible to sue them. I am not concerned to enter upon

the reasons why they could not be sued, but this I affirm, and no man will contradict me, that from the dawn of English history there never had been any attempt to sue a trade union in order to reach its funds to pay damages to anyone who was supposed to be wronged. Whether that was a law of procedure or a law of principle, I do not enter upon the discussion. I think it was a law of principle. It is sufficient to say there never had been, and until the decision of this House in the year 1901 [the Taff Vale Case] there never was any attempt, even an unsuccessful attempt, to make trade unions liable for damages in any action. That was, at all events, one of the advantages that they enjoyed in the years prior to 1871.

I see near me noble Lords who took a distinguished part in the fight which arose in those days. When I first began to take an interest in public affairs there was a great movement for the purpose of placing trade unions upon a proper and legitimate footing, among the men who had complained of this hardship, of the unfair position in which they were placed, of the absence of protection by the law to legitimate combinations, and of the liability to be pillaged in secret and persecuted in open court for things which are now universally recognised as lawful.

A Royal Commission sat in 1869, and, in the end, the statutes of 1871 and 1875 were passed, embodying principles of protection for trade unions. The first claim was that trade unions should be legalised, so that no longer should their funds be liable to be stolen or their members persecuted for belonging to a union. That was accomplished in 1871 by the great statute passed by a Liberal Government. The effect of that Act was not to incorporate trade unions, but to allow them to be registered with a sort of *quasi*-corporate existence, to protect their funds, and to prevent people from being prosecuted for belonging to them. That was the purpose of the Act.

But, observe, from the commencement of the discussion down to the time when the Act received the Royal Assent, there was not a whisper in this House or in the other, or

in the public Press, or anywhere else, that there was to be any change in the old practice of the law by which trade unions were free from having their funds attacked. I wish to emphasise this point. It was never suggested till the Act of 1871 was passed, that the immunity which trade unions had hitherto enjoyed from action was to be interfered with. If that was really the effect of the Act of 1871, it was the undesigned effect, for no one knew that it was being done. It was done by inadvertence and not by intention.

In the year 1901 it was discovered for the first time by your Lordships' House, sitting judicially, that this Act of 1871 had had the effect of depriving the trade unions of the immunities which they had enjoyed in every previous period of English history. That was the decision in the celebrated Taff Vale Case. I am not presumptuous enough to suggest that that is not good law. I know the immense capacity and learning of the great Judges who so held. But it was accidental and undesigned law. The result is that that Act of 1871, which was intended to protect the trade unions and to be a boon to them, became a bane to them instead.

From the year 1871 to 1901 everyone believed that the law was still such that trade unions could not be sued; and when this House came to the other decision, they overruled the Court of Appeal, which had decided in accordance with the universal belief in the legal profession, and among men of business and workmen, that trade unions could not be sued. The world went on very well between 1871 and 1901. There was a great multitude of strikes; but search the records of Parliament and the Press, and you will not find that anyone suggested that the law ought to be altered; and, if this new proposal which is represented as so shocking is to be stigmatised as unjust, it is at least an injustice under which, since 1871, the whole world of industry sat still without one complaint being made anywhere of the unfair operation of the law.

Trade unions, like the rest of the world, believed that

the law was as I have said, and, so believing, they built up their great funds. . . .

The purpose of this Bill is to place the law in the position in which every Englishman thought it was from the Norman Conquest onward up to the year 1901; and to prevent actions from being brought which never had been brought with success until that year. I submit that there may be some better reason than a craven compliance with the majority which induced the House of Commons to accept a proposal of this kind.

Now I come to the second proposal of the Bill. In the years 1871 to 1875 picketing, among other things, had been made difficult or dangerous by the decisions of the Courts of Law. A great deal of indignation has been expressed against the practice of picketing. It is an extremely disagreeable thing, I have not the slightest doubt. It is a phase in an industrial war. What it means is this—and I do not wish to minimise the discomfort of the transaction—that the men watch at the entrance of the works or at other convenient places, for the purpose of endeavouring to prevent others from going in to take their places while a strike is in progress. It cannot be done without some measure of discomfort, although it can be done—and I am glad to think that it nearly always is done—without violence or intimidation. If it is done with violence or intimidation, your Lordships will never hear me say that it ought not to be properly punished.

But picketing is a thing which was legalised long ago by the law of England. It was legalised by the Act of 1859 which has since been repealed; and also it was legalised—and it is to the honour of the Conservative Government of that day that it was—by the Act of 1875. Lord Beaconsfield was the Prime Minister of that Government, and he was also the author of *Sybil*, and a man with deep feelings on subjects of this kind. He sympathised with trade unions, as did Lord Cairns, one of the greatest Chancellors there has ever been in this country; and the third of the triumvirate responsible for the legislation of 1875 is the noble Viscount who is here now, Lord Cross.

He will remember these transactions well, for he was Home Secretary, and, if he corrects me, I shall know that I am wrong. But I think he will not correct me.

The second claim of the workmen was that picketing should be put upon a proper footing; and it was by intention put upon a proper footing by the Act of 1875. It was legalised for the purpose of obtaining information.

When the Bill was passing through the House of Commons a member moved an Amendment for the purpose of saying that picketing should be lawful, not merely for the purpose of obtaining information, but also for the purpose of peaceful persuasion; and the noble Viscount, being then Home Secretary, rose and said in the House of Commons, as will be seen from a reference to *Hansard*, that it was quite unnecessary to press the Amendment because, as the Bill stood, picketing would be lawful for the purposes of peaceful persuasion. In 1896 it was decided that picketing was only lawful for the purpose of obtaining information. The noble Viscount accepted what he was told by his advisers, and most innocently led the House not to proceed with the Amendment authorising picketing for peaceful persuasion, because he was advised that it was already the law of the land and that there was no necessity for the Amendment. Can your Lordships therefore complain that we have put in a clause making peaceful picketing lawful for the purpose of peaceful persuasion? It is another reason why the House of Commons may have thought that this Bill, notwithstanding the attacks of jurists and professors, which, I believe, have been very copious on this subject, had some merits and some title to be considered.

The third claim made by the workmen between 1871 and 1875 was that the law of conspiracy should be settled and made clear. They had suffered enough from the law of conspiracy. The law of conspiracy in this country is a very unsettled and a very difficult law to ascertain, and in regard to all subjects it would be better to have it cleared up. But the workmen said, 'We want to have it cleared up in regard to trade unions alone.' I have seen

criticisms in regard to this Bill to the effect that it had been brought in only for one class. But then so was the Act of 1875 brought in for one class, and the noble Viscount (Viscount Cross), Lord Beaconsfield, and Lord Cairns introduced a clause in the Bill of 1875 dealing with this law of conspiracy for one class alone.

They dealt with it in this way. At that time no one took any interest in the question of civil liability, and your Lordships will remember there never had been any attempt to make out any civil liability. It was only criminal liability that was thought of when an Amendment was being contemplated in the law of conspiracy. See what Lord Cairns, who certainly was not a revolutionary statesman, said—

‘The principle on which the Bill was framed was that the offences in relation to trade disputes should be thoroughly known and understood, and that persons should not be subjected to the indirect and deluding action of the old law of conspiracy.’

I cannot use any more severe censure of the law of conspiracy. There was accordingly a clause inserted in the Bill that no persons in a case of trade dispute should be exposed to criminal punishment for conspiracy—

‘Agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employer and workman shall not be indictable as conspiracy if the said act committed by one person would not be punishable as a crime.’

Then came the new world and the new ideas, and every one seemed to have forgotten all this controversy connected with the settlements of 1871 and 1875. Decisions were given to the effect that there was civil liability, and therefore the civil responsibility for conspiracy became very serious. This Bill [before the House] proposes to place civil responsibility for conspiracy on the same footing as criminal, nothing more or less.

RIGHT OF ASSOCIATION

EARL OF HALSBURY

*House of Lords, 4 December 1906**(166 Parl. Deb., 4 s., 704 ff.)*

[SEE note on No. 69. Lord Halsbury maintained the impropriety of changing the law in the manner proposed by the Trade Disputes Bill. He was Lord Chancellor, presiding in the House of Lords, sitting judicially, when the Taff Vale Case was decided.]

The question is not one of technicalities; it is a very simple one indeed. It is whether one particular class of the community are, or are not, to be freed from the ordinary responsibilities of their actions in a trade dispute; and the only reason advanced for this amazing proposition is the idea which was said to prevail from 1871 to 1901 that trade unions could not be sued. Personally, I think that idea was a mistaken one. . . .

I remember very well when I was at the bar hearing that distinguished judge, Lord Bramwell, who was not one of those who sat on this side of the House, saying that the distinguishing characteristic of English law from its earliest period was that a man's will was as much protected by it as his body; and that if by intimidation or any other means you try to coerce a man's mind you are guilty of an unlawful act.

What is it we have got to deal with here? This Bill says in terms that if a man does wrong to another in the course of a trade dispute the Courts are to have no jurisdiction. I venture to say that so disgraceful a section has never appeared in an English statute before. You admit the wrong, but you say the man who does the wrong shall have immunity because he belongs to a privileged class. Was there ever such a thing heard in a civilised country?

It is said that a similar immunity is extended to the

employer as to the employed. What does that come to? In the case of a trade dispute those who administer the law are to retire, and these two are to be given letters of licence to do as they please with one another. I protest against such a principle of law being embodied in a statute, and I cannot think that people really understand what is at the bottom of this Bill. A great many of the employers were no doubt under the impression that the Bill which is now before your Lordships would never be proceeded with at all. I notice that employers in the House of Commons only have been referred to. But what about the employers outside the House? Have they had their minds applied to this Bill? Was this particular form of legislation put by way of mandate at the general election? I doubt it; and, even if it had been, I should very much doubt whether the full effect of it was contemplated.

By this Bill you are getting rid of one of the principles of English law. What is it that gives confidence in English law? Is it that it recognises the principles of justice? The principle of law contained in this Bill is absolutely contrary to the whole spirit of the Constitution. The noble and learned Lord on the Woolsack referred to the manner in which trade unions had gathered together their great funds, and incidentally I must say I thought it a little remarkable that these trade unions which are to get immunity by reason of an argument *ad misericordiam* are able to administer such a sum as £16,000,000. Would there be any difficulty in protecting the funds of trade unions which are used for the purpose of sick benefits and so on? No one doubts that legislation directed to that object would be welcome. It is recommended by the Royal Commission. But that will not do. Why not? Because the immunity is sought for funds which are used for what is practically civil war in another form. . . .

What I cannot understand, and what nobody has yet explained, is why these particular persons—employers and employed—are to be placed outside the law. What example for such a proceeding is there in our Constitution?

I seek in vain for an answer. Now, let us read the language of the Bill itself, for I confess I should have thought nothing more than this would be necessary to condemn it. Clause 4 provides that—

‘An action against a trade union, whether workmen or masters, or against any members or officials thereof on behalf of themselves and all other members of the trade union in respect of any tortious act alleged to have been committed by or on behalf of the trade union, shall not be entertained by any court.’

Language fails me to say more of that than that it speaks for itself. Anything more outrageously unjust, anything more tyrannical, I can hardly conceive. My noble and learned Friend said, in dealing with this question, we are not to listen to jurists or to professors. If I refer to what was apparently the most prominent thing in his mind—namely what the Attorney-General had said, what Mr. Asquith had said, and what Mr. Haldane had said—I care not at all for their utterances as a stone to throw at the Government of which they are members, but what I say about them is that they are gentlemen of high authority, of great learning, and persons whose views on such a subject are well worth consideration. I invoke their authority to show how utterly indefensible is the Bill now before your Lordships.

RIGHT OF ASSOCIATION

VISCOUNT HALDANE

House of Lords, 5 February 1913(13 *H.L. Deb.*, 5 s., 843 ff.)

[LORD HALDANE, as Lord Chancellor in the Asquith Ministry, moved the Second Reading of the Trade Unions Bill, which was introduced as a result of the decision in the Osborne Case. He was an authority on trade-union law; and was leading counsel for the trade union in the Taff Vale Case.]

The decision of this House [sitting judicially] in 1909 [in the Osborne Case], which made it clear that a trade union was limited in the application of its funds by the strict rule which the doctrine of *ultra vires* imposed, and that it could not apply them for political purposes—a decision which was a very natural one to lawyers and to those familiar with the principles which guide the Courts in constantly applying well settled rules to new cases—came as a surprise to the trade unions. I doubt whether even their legal advisers had realised its possibility in the year 1871 when the [Trade Unions] Act was passed, and certainly the trade unions themselves had not realised it because for many years they had gone on using their funds for the promotion of what are called Labour candidatures. It was not unnatural that they should do so. There are a great many cases in which a candidate cannot, unassisted, sustain the considerable expense of a contested election, and even may require some help during his career in Parliament. The great political parties of the State have their organisations; the Liberal Party has its organisations, the Unionist Party has its organisations, with large funds, contributed by rich men, which enable them to get over these difficulties when it is necessary

to do so; but working men have no such possibilities. They have no rich men among their numbers, and the only way they can get round what is a real obstacle is by contributions of small amounts from a very large number of members, and the only machinery by which they can collect these contributions is the machinery of the trade unions. Consequently it happened after the extension of the franchise in 1867 that working men began, through the instrumentality of the trade unions, to promote Labour candidates and provide for the sustenance of representatives of Labour during the period in which they sat in Parliament. That practice went on unbroken until a man of considerable courage, Mr. Osborne, adopted an independent line and took exception, I do not know whether to the principle, but at all events to the practice under which he found himself called upon to submit to a levy for the purpose of maintaining a political candidate with whose views he did not agree. The Bill before your Lordships' House to-night does not go back upon what was laid down as the law in the case of Mr. Osborne except to a limited extent. The Bill does not propose to allow the trade unions to compel anybody to be called upon for a levy to support a candidate with whose views he does not agree, or to subscribe to the furtherance of political views which are contrary to what he desires.

The Bill contains three principles. First of all, it repeals the technical rule which suddenly made it clear that it was illegal for trade unions to do what they had been doing for over thirty years—namely, to apply their funds for the furtherance of political candidatures and for cognate political objects. In the second place, it declares that these political objects are not to be included within the purposes of the trade unions unless a majority of the members, voting by ballot, so desire. In the third place, it proposes to enact that, if anyone says he does not wish to subscribe he can do so without incurring damage thereby or having his *status* as a member of the union prejudiced.

To realise why the working classes are so keen about this Bill it is necessary to go back for a moment to history. No doubt trade unions have in the course of their time done foolish things, but on the whole they have been, I submit, a great benefit to the working class community. It is impossible for an individual workman to hold his own against an employer in a far more powerful position. It is only by combining for the purpose of negotiating on a footing in which the parties are more evenly matched that it is possible for the working man to drive for himself a fair bargain.

Although freedom to combine to that end seems to us elementary, it was a proposition which was hotly contested in the past. Those of your Lordships who have the curiosity to turn to the records on this subject in the eighteenth century will find many things which will astonish you. Not only was it peremptorily laid down in the Courts that combinations to keep up wages were in restraint of trade and therefore illegal by the common law, but the doctrine of conspiracy was ruthlessly applied to persons who offended by their practice against this rule, and cruel sentences were passed right and left on working men who were doing what would be to-day regarded as commonplace things.

The next thing that happened was that legislation of an even more drastic character than the rules of the common law was enacted. One of the most curious of the Statutes on the Statute Book is Chapter 136 of 39 and 40 Geo. III, the Act of 1799, which declares that an agreement among workmen that they will ask in common for a rise in their wages or the shortening of their hours of labour is an illegal agreement, and goes on to prohibit any such agreement and any meeting for that purpose, and makes the conduct of working men who indulge themselves in what would otherwise seem to have been a very natural and obvious step in industrial life subject to penalties of the severest order. That Act was not only passed in the year 1799 but was ruthlessly enforced for many years, and the records are full of cases

of cruel sentences passed on working men in the early part of the nineteenth century.

But the Reform Act of 1832 brought a considerable change in the spirit in which the Legislature looked at these things. Agitation arose in Parliament and out of Parliament and was growing in volume when the extension of the franchise took place under Mr. Disraeli's Government in 1867, and, as soon as it became apparent that the working classes were about to have the franchise, their demands took a more definite shape. I say, again, that in the history of trade unions in this period bad things were done as well as good things. Certain of the trade unionists inflicted outrages upon their fellow-workers and a system which was known in those days as 'ragging' became prevalent. But accompanying the outbreak of this system there grew the conviction in the minds of reasonable people that, if these things happened, there was some excuse for their happening by reason of the laws to which trade unions were subjected and the little power which the members of those trade unions had to protect themselves; and a Royal Commission was appointed in 1867. That Commission, after a prolonged investigation, reported on two subjects—the Sheffield outrages, which was the minor subject, and the state of the law, which was really the major subject. As to the minor subject, they reported that, although there had been very serious outrages in Sheffield those outrages were the work of not a fifth of the trade unionists existing in Sheffield at that time, the majority of the working classes in that great city and in other great cities having conducted themselves well in the furtherance of their objects.

As regards the law, the Royal Commission was very much divided. The majority recommended legislation of a very indefinite kind, the minority recommended legislation of a much more drastic kind; and Mr. Frederic Harrison and other well-known men took an active part in pressing the minority view on the minds of the public. The result was that two Statutes were passed in 1871.

By one of those Statutes the breach of the law which had taken place in Sheffield was provided against and stringent regulations put on such practices as picketing and molestation; and, by the other, trade unions got their legal *status*.

The Act of 1871, which was the main result of the Royal Commission of 1867, did several things. To begin with, it repealed the doctrine that a trade union could not be treated as legal in the eyes of the law. It repealed the doctrine that by reason of their objects being in restraint of trade they could be recognised as having no validity and possibly involving those who took part in furthering them in prosecutions for conspiracy. Then the Act went on to provide that trade unions might, if they so pleased, register themselves, and, if registered under the Registrar of Friendly Societies, they should have certain privileges and advantages which had been hitherto denied to them. These were the great purposes of the Act of 1871; but, as I said, nobody believed for a moment that the trade unions had been incorporated and were therefore subject to the doctrine of *ultra vires*. A trade union was defined in somewhat general terms. So little attention did the Legislature pay to the definition of its objects that there was no proper definition, and there was only a casual reference to benefits as a legitimate object of a trade union. Had it not been for that reference it might have been necessary for the Judges, in interpreting the law, to have held that the benefit organisations of trade unions were also outside the scope of the law. On the words of the Act of 1871 it is certain that a fair argument might have been put forward to that effect, but fortunately in other sections of the Statute the word 'benefit' was included, and therefore this House had no difficulty in deciding, in the Osborne case, that the doctrine of *ultra vires* did not extend to the prohibition of trade unions using their funds for benefit purposes.

But the Act of 1871 did not give satisfaction. There were defects in it, and there were still greater defects in the criminal legislation of the accompanying Statute.

Accordingly Lord Beaconsfield's Government in 1876 passed an Act extending the scope of trade unions, and, by another Act in the previous session, placed the law as regarded criminal offences on a much more rational basis. These two Acts of the Government of 1876 represented a considerable advance in the development of the law relating to trade unions. Since that time matters have gone on without suspicion on the part of trade unions that in doing what other political parties do, using their funds for the promotion of political purposes, they were doing what was illegal; but the decision of this House—a decision which, I think, is unanswerable when one comes to consider cognate legal principles and see how they apply, but which, like other decisions, is in advance of things that lawyers dreamed of half a century ago—cast a new light on the position of trade unions, and a trade union can no longer apply its funds for political purposes. The trade unions naturally felt under that the sense of very great injustice, and a movement arose which took shape in the Bill which I have now to describe briefly to your Lordships.

[Lord Haldane then commented on some of the clauses of the Bill.]

In that state of things the Bill, so amended, came for its final stage before the House of Commons on Friday last. Up to that date there had been a good deal of controversy, some people taking one view and other people taking another, but a happy spirit of give and take appears to have prevailed in the latter stages of this Bill, and the three parties concerned appear to have found themselves completely at one, because there was no Division on the Third Reading. Speaking in the debate in the other House on Friday last the Leader of the Opposition [Mr. Bonar Law] summed up the situation thus—

‘I should like to say a few words about the Bill before it leaves this House. As regards its general principle there has not been from the first any dispute. I think every one in all quarters of the House recognises that the Osborne judgment left trade unions in an invidious and I think an unfair posi-

tion. They ought to have been able, if they wished, to carry on political action under fair conditions. On that point I do not think there has ever been any difference of opinion.'

And then Mr. Bonar Law went on to say that the Bill represented a satisfactory mode of giving effect to the principles on which there was general agreement.

RIGHT OF ASSOCIATION

*SIR JOHN SIMON**House of Commons, 11 May 1926**(195 H.C. Deb. 861 ff.)*

[DEBATE regarding the legality of the General Strike, on motion for adjournment. Whether Sir John Simon's view or that of his critics is correct is still the subject of controversy.]

The central proposition which I suggest that anyone who studies this matter fairly must accept is this—that this so-called general strike, whatever be the provocation or the explanation or the circumstances which caused it to be decided on, is not, properly understood, a trade dispute at all. I am quite willing to believe that it has had its origin in a trade dispute. I take the view that, so far as that particular trade dispute is concerned, my hon. Friends above the gangway are very far from being people without reason for supporting most strongly the contention that the coal miners must have all the public support that could properly be given to them. But my point is that, once you proclaim a general strike, you are as a matter of fact, starting a movement of a perfectly different and a wholly unconstitutional and unlawful character. . . . I take the view that the Trade Disputes Act, when it spoke of a 'trade dispute', undoubtedly never contemplated at all the situation in which we are standing to-day.

The best proof of that is that the Trade Disputes Act was carried through this House on its Third Reading without anybody voting against it, and the plain fact is—not as a matter of narrow law, but as a matter of broad fundamental constitutional principle—that once you get the proclamation of a general strike such as this is, it is not, properly understood, a strike at all because a strike

is a strike against employers to compel employers to do something, but a general strike is a strike against the general public to make the public, Parliament and the Government do something. I ventured this view last week because I felt it my duty to state it as clearly as I could for the information of any who might choose to listen to me, or read what I had said. The hon. and learned Gentleman the Member for S.E. Leeds [Sir H. Slessor] last night observed that these legal propositions could only be finally decided by judges, and not by other members of the public. That is quite true. I merely offered that view believing it to be true, but I have very good reason now to think that it is accepted and entertained in quarters which the hon. and learned Gentleman the Member for S.E. Leeds certainly will not suggest are either partisan or ill-informed on the subject. I notice that a very learned judge, Mr. Justice Astbury, in a judgment which I understand he gave this morning—I saw a copy of the judgment an hour ago—has been stating this proposition. I think it worth while to read to the House three short passages from the judgment of this learned judge who had before him a dispute concerning the Sailors' and Firemen's Union. I am not concerned with that dispute, but in the course of his judgment the learned judge, dealing with the facts and the law, said:

'The so-called general strike called by the Trade Union Congress Committee is illegal and contrary to law, and those persons inciting or taking part in it are not protected by the Trade Disputes Act of 1906. No trade dispute has been alleged or shown to exist in any of the Unions affected except in the miners' case, and no trade dispute does or can exist between the Trade Union Congress on the one hand and the Government and the nation on the other. . . . The orders of the Trade Union Council above referred to are therefore unlawful and the defendants are at law acting illegally in obeying them, and can be restrained by their own Union from doing so.'

This was a case where the union itself was intervening to prevent members of the union from being required by

other bodies to leave their work improperly. Then the learned judge said:

‘Now the law upon trade union benefits is as follows. No member of the plaintiff union, or any other Trade Unionist in this country, can lose his trade union benefits by refusing to obey unlawful orders.’

I am sure my hon. and learned Friend the Member for S.E. Leeds will be glad to have this from a judicial authority. I understand his language last night might be thought to show some little doubt about this, but perhaps I was ill-informed. The learned judge proceeds:

‘The orders of the Trade Union Congress and the Unions who are acting in obedience thereto in bringing about the so-called “general strike” are unlawful orders and the plaintiff union is entitled to have this fact made clear and brought to the attention of its members.’

That was the second point I made.

Then, says the learned judge finally:

‘Trade union funds in this country are held in a fiduciary capacity, and cannot legally be used for or depleted by paying strike pay to any member who illegally ceases to work and breaks his contract without justification, in pursuance of orders which are unlawful, and this fact also is one that the plaintiff union is entitled and bound to make clear to its members in the difficult position in which they have been placed.’

I venture to delay the House to read those extracts, because if the hon. and learned Member for S.E. Leeds wants judicial authority, there is the judicial authority. I do not know whether the hon. and learned Member would attach importance to an extract from a text-book of repute. He himself is the author of a text-book on this subject which is, if I may say so, a very good one. In the course of that work—which I know very well and which many of us often use, greatly admiring the talent of its author—the hon. and learned Gentleman himself

in his own book, under his own hand, lays down this very simple proposition—

‘There has recently arisen for consideration the question of how far a strike called for political objects,—“direct action” as journalists have called it—that is, a strike to interfere with or constrain the act of the Government in conduct which the trade unions do not approve, can be said to be a strike in contemplation or furtherance of a trade dispute. This matter has fortunately not yet had to be decided.’

The hon. and learned Member was writing some time ago. Most unfortunately it has now to be decided. As a matter of fact, it was decided in the Law Courts this morning—

‘I have very little doubt that such a strike would not be covered by the words and the definition of the Trade Disputes Act.’

I just want to point out to members of the Labour Party, [Hon. Members: ‘You need not’] I think some members of the party do need it, but let me point out to the House that the only possible matter that ever could be debated on this subject is whether or not the particular proclamation of a strike does or does not come within this perfectly plain constitutional rule. You may do what you think right in the exercise of the right to strike against your employer, but you are not only breaking the law, but you are inflicting a most serious blow on the whole constitution of the country if you abuse that undoubted right with totally different effects. So that the result of what you do, whether you mean it or not, must be that you are putting pressure upon the community, the Government, the people, as a whole.

I am saying a thing which has been perfectly well understood by the Labour leaders themselves. I do not suggest for a moment that the very distinguished leaders of labour who are represented on the Front Opposition Bench in this House are not as well aware of these propositions as I am. My very respectful criticism is that if

they are so well aware of that, firstly, they should have stated it explicitly and publicly before this strike was proclaimed, and, secondly, they should have risked everything sooner than have allowed themselves to be associated in supporting a general strike.

RIGHT OF ASSOCIATION

JOHN WHEATLEY

House of Commons, 5 May 1927(205 *H.C. Deb.*, 5 s., 1835 ft.)

[DEBATE on Second Reading of the Trade Disputes Bill (framed to deal with questions raised by the General Strike of the preceding year).]

This Bill is not designed to secure peace by negotiation. It is framed with the direct object of securing peace in industry by the use of the police, the Law Courts, the Judges, and, if necessary, the prisons. I submit that that is one of the most shameful actions of which any prominent statesman in our country has been guilty for a considerable number of years. The Attorney-General, in moving the Second Reading of this Bill, submitted to the House four propositions; and he invited the House to regard these as objects with which we were all in agreement, and the Bill as calculated to give effect to those propositions. Then the right hon. and learned Gentleman very adroitly proceeded to appeal to us on this side of the House to regard ourselves as being in agreement with the objects, and differing only as to methods. He said, 'The language may be vague; certain Clauses may be weak; but let us co-operate fraternally in getting a Bill that will realise the objects with which we are in general agreement.' I wish, so far as I can without encroaching too much on the time of the House, to question the extent to which these four propositions laid down by the Attorney-General can be justly applied to the actions of trade unions.

The first proposition was that the general strike is illegal. I do not think it carries us any further when we make a general statement like that. The fact of its being illegal does not touch at all the question whether it is

right. A Government with the will and the power can make anything illegal. Time and circumstance to a large extent determine illegality. A monarchy is illegal in France, Germany or America, but no hon. Member on the other side of the House would get up and say that the institution is wrong because in certain parts of the world it is illegal. A Parliament like this is illegal in Russia; opposition to a dictatorship is illegal in Italy; but none of these circumstances determines whether or not the things that are illegal are right or wrong. What we have to discuss here is not what is legal, but what is morally justifiable. I submit that it is a misuse of words to describe what occurred last year as a general strike. At no time were there more than 20 per cent. of the workers of this country in the field, and to describe as a general strike a situation in which 80 per cent. of the workers continued in employment is, as I have said, a misuse of the English language. A general strike is a practical impossibility. There are certain workers without whose services even a strike could not survive, and the party opposite, the representatives of the Government and their supporters, know quite well that you cannot have a general strike.

What this Bill is aimed at is a sympathetic strike. It is a sympathetic strike that we have to justify, and I, for one, to my own conscience have no difficulty whatever in finding justification for it. Everyone admits the right of the individual to withhold his labour if he so desires; it is the mark of distinction between a free man and a slave. But to-day the wages of workers are not settled individually. The worker has no choice in the matter. He is not free to negotiate individually with his employer. Wages are settled in the mass formation form to which the Prime Minister referred, and, whether the railway worker or the miner likes it or not, his employers and his fellow-workers insist on collective bargaining with regard to wages, and he has to accept those conditions. How, then, could it be maintained that, while an individual is forced to sink his individuality in bargaining

for wages, you are thereby justified in depriving him of his free man's liberty? I submit that that is a position which cannot be justified. And not only that; I go further, and say that that principle carries us far beyond the bounds of any particular industry. We are told by speakers on the Front Bench that, while that may be true of, say, a man engaged in the railway service, it does not justify an engineer in going to the assistance of the railway workers. But I submit that it does. For years Lord Weir and others have carried on a campaign to draw attention to the disparity in wages between the employés in sheltered and in competitive industries, and have pointed to the importance of reducing wages in the sheltered trades in order to enable employers in the competitive trades to deal with their workers in a manner that would enable them to compete with the foreigner in the neutral markets of the world. If Lord Weir be right, if all that Lord Weir represents be right, in the contention that the engineers' wages are determined by the wages of the railway workers, then, when the railway workers are fighting for a standard of wages, are they not at the same time fighting for a standard of wages for engineers; and, in these circumstances, how can the engineers be morally prevented from going to the assistance of their railway fellow-workers? I submit that there is no case against the moral justification for a sympathetic strike. Whether it is wise or not, whether it is good tactics for the workers to adopt, is beside the question altogether. The wisdom or folly of such action is a question for the workers, and for the workers only, to determine, and is one that is beyond the jurisdiction of this House.

Then we are told that intimidation is illegal. That is all right in the abstract; intimidation is illegal; but I have no doubt that all the legal magnates who rise in this House and tell us these things know of cases where they would justify even violence, and have justified violence, in the Courts. If a man proceeds to attack me in order to rob me of my watch, any of these legal gentlemen would find legal justification for my knocking that man

down; and, if I may use intimidation against a man in such circumstances, if I may be very threatening, even though I stop short of action, against a man who wishes to rob me of my watch, how can it be argued that I am not morally entitled to go a long way against the man who tries to deprive me of my bread?

If we may take a case in point, it might be this, that if 600,000 railwaymen decide to-morrow to resist a reduction in wages, and if, among that 600,000, there is a minority of 100,000, the ballot being five to one in favour of a strike, it is quite clear that, if the minority of 100,000 continue at their work, they may, and probably will, determine, not merely the wages of themselves, but the wages of the majority as well. It would be all right to grant this freedom to the minority if they were only, by their black-legging, determining their own wage conditions; but on what grounds are you going to justify a minority of one in six determining the wages of the majority of the workers? There can be no justification for that, and I submit that it is as big a crime to deprive a man and his wife and children of their daily bread as it is to deprive a man of certain forms of property. Therefore, there is nothing extraordinary in the fact that the law as it stands to-day allows workers to go a long way towards persuading a minority of their fellow workers, in a time of industrial strife, to abide by the decision of the majority. It is exactly the same procedure as is adopted by the State. When a nation goes to war, where are the rights of the minority? The nation claims that it is fighting for the common good, and that, willy-nilly, they must all come in, whether they approve of it or not; and the very same principle that justifies that action on the part of the State justifies the action of a trade union majority, in a time of industrial strife, in insisting on acquiescence by the minority.

Coming to the third proposition, with which I do not wish to deal at any length, namely, the proposition that no man should be compelled to subscribe to the funds of a political party against his will, that, again, may be all

right in the abstract, but this Bill is aimed at the Labour Party only. The Labour Party is not merely a political party; it is partly political and partly industrial. We all remember that the coal dispute of last year was fought out to a large extent, and I believe determined, on the floor of this House, and, surely, when the Eight Hours Bill was being discussed, a Bill that was destined to have the most vital effects on the dispute that was going on outside, the miners of this country were entitled to be directly represented in this House. It was as essential that they should have their representatives here as at the conferences where the matter was being discussed, and the Miners' Union were just as much entitled to use their political funds in sending their representatives here as in sending their representatives to discuss the wages problem in any other part of the country.

I might go on and deal in the same way with the fourth proposition, regarding the Civil Service. The Government are laying it down now that when a man enters the Civil Service, he is to find at the door a statement, 'Abandon citizenship all ye who enter here.' The proposition is seriously submitted that a person cannot at the same time be loyal to his class and loyal to the State. If that proposition be sound, there are not many loyalists to the State on the other side of the House, because I do not know a single one of them who is not loyal to his class; and, if a rich man can be loyal to his class and at the same time loyal to the State, then I submit that the postmen and other civil servants of this country can be trusted as much by the Government of this country as any section represented on the other side, or sitting on the other side, of the House.

I do not want to occupy time any further except to say that I believe this Bill will become an Act of Parliament, and that a great many things that have been said about the likelihood of this creating greater difficulties for the Government than exist at present are absolutely true. I have not the slightest doubt in my mind that when the Bill is placed on the Statute Book and the workers are

up against the new conditions that are created, they will find means of defeating the tyrannical legislation that is now before the House. In their attempt to find ways of evading a law which has no moral justification and therefore deserves no respect, as far as I am concerned, and anyone for whom I can speak in this House, we will enable and we will assist them to find means of evading and defeating it by every resource in our power.

RIGHT OF ASSOCIATION

*VISCOUNT HALDANE**House of Lords, 30 June 1927**(68 H.L. Deb., 5 s., 14 ff.)*

[DEBATE on Second Reading of the Trade Disputes and Trade Unions Bill (framed to deal with questions raised by the General Strike of the preceding year).]

The noble and learned Viscount [Viscount Cave, Lord Chancellor] has given an account of the Bill, which, of course, is a very accurate one so far as its text goes, and he has made it plain that the real and important clause in the Bill, the one that comes first and is the foundation of the whole structure, is Clause 1, which declares certain general strikes illegal and the action of the trade unions which promote them illegal. . . .

The Trade Disputes Act, or what Lord Banbury regards as the iniquitous provisions of 1906, on which I shall have a word or two to say a little later, remains intact. What the Bill does do is to strike, and strike heavily, at a great principle which has been a part of our Common Law for a long time and has been primarily recognised by our Statute Law—the right of every workman, and the right of any number of workmen in combination, to say: ‘We will not continue to labour unless we are satisfied on points’—as to wages or hours or anything else—‘on which our union is interested.’ That is undoubtedly, as I shall demonstrate in a minute or two, the law of the land. But there are other views, not of the law, because as a rule the people who entertain those other views have not considered the law, but of trade unions, which lead people into different directions.

What is a trade union? A trade union has been defined authoritatively to be ‘a continuous association of wage earners for the purpose of maintaining and improving the

conditions of their working life'. That is the very essence of a trade union to-day, and that is why it exists—to maintain and improve the conditions of the working life of those who belong to it.

A trade union acts with two instruments. One is its power of collective bargaining, which the individual workman does not possess, but which he does possess when he acts with his fellow workers. The other is the instrument by which they can make their force felt, which is the strike. That is why the right to strike has always been very high in the mind of the working classes, but not higher than it has been in the minds of the Judges. I have here an extract from a decision of your Lordships' House given in the year 1892, which I think, conclusively determines this. Lord Bramwell, who had certainly no leaning towards Socialism, in delivering the judgment of the House of Lords in the *Mogul steamship* case in 1892, as your Lordships who are interested in the matter may see from the report, said:—'I have always said that a combination of workmen, an agreement among them to cease work, except for higher wages, and a strike in consequence, was lawful at Common Law.' This has been said over and over again. All strikes, as such, are of this nature, and yet, the Government proposes, as I will show, to put on the rights so recognised by this House a restriction of the most serious order, so as to render it very much less useful than it is at present.

Pray do not think that I am an admirer of strikes, or that I would not wish, as much as any of your Lordships, to see them never occur. But what I want to point out is that there has been a confusion of thought in the framing of this Bill between strikes and the evil consequences which may attend strikes. Every man has a right to say: 'I will not work unless I can come to an agreement with you about hours and wages.' But it is quite another thing when a man, or still worse a combination of men, proceeds to resort to rioting, to violence, or it may be to that organised use of force which in law is called sedition, for the purpose of enforcing their claims. If the Govern-

ment had brought in a Bill distinguishing between the lawfulness of combination to cease work, between a strike as such, and the unlawful consequences which may be put into operation following on that strike by those who promoted it, then I could have understood their position, and I think there would have been a great deal to say for many things in their Bill. That would, of course, have changed the whole Bill, because Clause 1 underlies its whole structure.

What I want to insist upon is this confusion of thought. There may be a strike without any illegal action at all; and, if there is, then it is something not only to which the law does not object, but something which, as I have just shown by the highest authority, the authority of this House, has been declared to be the legal right of the workman. The Bill is only to a very slight extent a Bill dealing with the unlawful actions which are sometimes committed by hot-headed strikers. What was impressive during the last great strike was the very little amount of violence there was. When there was any, it was among the miners, and even then there was very little of it. But among other bodies there was practically none of which we need take note. Yet your Lordships are invited to take this opportunity of saying that general strikes are illegal and even, as I will show, notwithstanding a sentence that was used by the noble and learned Viscount on the Woolsack, that what are called 'sympathetic strikes' are unlawful. . . .

A general strike is nothing else than an extended sympathetic strike, that is, it is a strike of the whole body of workers who are engaged in industries. It is a strike which comes about because of their sympathy with a dispute which is not their own dispute, but a dispute in which they are interested because it tends to the general level of wages and hours throughout the country.

It is a great delusion to think that the working classes consist of a set of water-tight compartments and that one trade has not an interest in another. It is a delusion as regards the employers, for they work together on a very

extensive scale. But the workmen are assumed here to have nothing to do with one another, and those in one trade are assumed to be wholly unconcerned with the affairs of those in another trade. I say that this is not only a mistake, and a very serious mistake, but that it is contrary to the law as laid down by Lord Bramwell. Lord Bramwell put no limitation upon what he said, and it does not remain at that, because some years afterwards this House, in the case of *Conway versus Wade*, laid down authoritatively that the right of striking extended to the sympathetic strike. That was said in terms, and consequently you have two decisions from the highest authorities that a sympathetic strike is something that is lawful.

The noble and learned Earl, Lord Birkenhead, on one occasion put to me a question across the floor of the House. He said: 'Yes or no—are you in favour of a general strike?' I, for two reasons, refrained from answering him. One was a mere reason of form—that this House is not the Old Bailey and not a place in which to cross-examine people. The second reason, however, was one of substance. It was that the question rests on a confusion. It is like the good old question: 'Have you left off beating your grandmother?' If you say that you have, it is said that you have been beating her; and, if you say you have not, it is again said that you have been beating her, and you cannot get out of it. Here it is assumed by those who put questions of that kind that there is something illegal in a combination of workmen of this kind, quite apart from what they do. If it is a question of whether we approve of riot or seditious action or violence in some form, the answer would be 'No'. But the question is not put in that way, but is mixed up with another that challenges the general right to combine to lay down tools on the part of the workmen.

This is not an academic matter. It is a matter which will be debated on every platform throughout the country before we are many months older. People are slow to take up legal points, but they must take them up if they

are to defend their rights. One of the legal points that the workman will take up is his freedom, in his trade union and in combination, to assert the right to give or withhold his labour on the terms which, by collective bargaining or otherwise, he can arrange with the person who employs him. If that is kept as a quite distinct and separate question, then this clause is unutterably wrong—wrong because it preserves the right to strike only in the case of the industry in which the striker is engaged and prevents the general strike, and, I think, not less the sympathetic strike, because I cannot appreciate the distinction which the noble and learned Viscount drew between them. It makes this Bill a Bill which not only challenges but takes away the right which the workman has enjoyed for a very long time. One of the great principles that was vindicated by Mr. Disraeli was that no combination of men was to be deemed to be committing an act of conspiracy if what they combined to do was something which would be lawful if done by a single individual. A single individual may withhold his labour, and, since Mr. Disraeli's great Act of 1875, the Conspiracy and Protection of Property Act, it has been lawful for people to combine to withhold their labour. . . .

I come now to what was said upon this subject, in this House [as a Court of Law], in the case of *Conway versus Wade*, which was decided in the year 1909. It was the decision of a strong Court, and it was unanimous. The judgment, which can be found in the Law Reports for 1909, was delivered by the Lord Chancellor. The question was whether the language of the Statute and the principles of the common law are confined to a trade dispute between the parties to the dispute, that is, the employer and the man in his employment in a particular industry; and the Lord Chancellor said:—

'I agree with the Master of the Rolls that the section cannot fairly be confined to an act done by a party to the dispute. I do not believe that was intended. A dispute may have arisen, for example, in a single colliery, of which the subject is so important to the whole industry that either employers

or workmen may think a general lock-out or a general strike is necessary to gain their point. Few are parties to, but all are interested in the dispute.'

That is the decision of this House. Then the Court of Appeal, three years later, in *Darlaston versus Williams*, laid down the same doctrine. I say beyond all question that a general strike is perfectly lawful, so long as it is not associated with crime in the shape of riot, sedition or the use of violence.

It is said that there is high authority the other way. I have of course read, as your Lordships have, what was said by Mr. Justice Astbury in a recent application. It was an *ex parte* case in which there was no proper argument. It was not necessary for Mr. Justice Astbury to say anything on the point, because he could decide and did decide the matter on the breach of the rules of the union, and I cannot find that the relevant authorities which I have quoted were ever cited to him. Therefore, I must be forgiven if I prefer the opinion of this House and of the Court of Appeal to that of Mr. Justice Astbury. Nor can I bring myself to agree with some of the words which fell from the lips of Sir John Simon, who seemed to say that a general strike was in itself unlawful. . . .

I really have not much more which I wish to say, except a few words to reinforce the authorities of which I have spoken. . . . For a long time the Parliament of this country has been engaged in trying to clear up these matters. Before the end of the eighteenth century Parliament had taken on itself to regulate wages and hours and to look after not only the employed but the employers; and it made a very great mess of the business. Then came, in 1799, a Statute which swept away all that and put matters on this footing, that any combination of workmen to alter their wages or improve their conditions was an illegality and a conspiracy. That remained so until 1824, when the reformers of those days carried through Parliament an Act which made it legal to do those very things which the Act of 1799 had declared to be illegal; but, in the next year, that Act was somewhat

altered, and it was left open whether a combination to raise wages might not take the form of a conspiracy in restraint of trade, and so be illegal.

So the law remained, and there was much confusion and a great deal of irritation, until the great Commission was appointed in 1867 under the Chairmanship of Sir William Erle, who had been Chief Justice of the Common Pleas. That Commission reported in 1871, and the substance of the Report was embodied by the Government of the day in a Statute which gave effect to most of its recommendations; but the full work was not done till 1875, when Mr. Disraeli passed his great Conspiracy and Protection of Property Act, which made it perfectly plain that anything which could be done by a single workman might be done by any number of workmen without infringing the law of conspiracy. There have been other changes in the interests of the community, but the principle stands.

There was the decision of this House in the Taff Vale case, and I allude to that because, unless you understand what happened then, you cannot understand why the Trade Unions and Trade Disputes Act, 1906, was passed. The Taff Vale case arose out of a dispute between the railway company and its workers, and undoubtedly, I think, acts of violence were committed, but reliance was placed on the doctrine, for which there was great countenance in the Report of the Royal Commission, 1871, that you could not bring an action of tort against a trade union. That was believed. The Court of Appeal took that view, and the case went to your Lordships' House, and I know it well because I was counsel for the trade union in the case. Your Lordships decided that the Court of Appeal were wrong, and laid down the law, and I am not saying a word against the legality of the decision. That was for your Lordships to determine authoritatively.

But the consequences were tremendous. There has not been much said about it, but there is going to be much said. It created a storm. The Conservative Government

of the day was hurled out, and what happened was that it was plain that one of the first things that the new Liberal Government of 1906 had to do was to bring in a Bill to put it right. I was in the Cabinet, and we set to work and prepared our Bill, and prepared it on what I thought was the best footing, the restriction of the law of agency and the separation of the funds. When we got to the House of Commons we were confronted by an enormous majority, composed not only of Liberals and not only of Labour, but of some Conservatives, and, as for the Conservative leaders, they did not stand up against the storm. They gave in, and the Bill was carried. . . . Then the Bill came here, and your Lordships, looking upon discretion as the better part of valour, offered no opposition to it. You let it go through.

That was the history of the Trade Disputes Bill [of 1906], and that is how it came to be passed. It was passed by the decision of the constituencies. Not any of your Lordships whom I see here had the courage to stand up against that decision, and I think you were prudent because you would have been violating the Constitution if you had. The Government very prudently have not repealed the Trade Disputes Bill [or, rather, Act]. They have excepted from it certain strikes, but they have let it operate in directions in which it was, I should have thought, most likely that they would wish the whole thing to be brought to an end.

This Bill [before the House] will pass. You are in a great majority. We can only warn you, that is all. In 1906 you had the same result of disregarding warnings that you had in 1832, and that you had subsequently in 1911. It is never safe in this House to say: 'Oh, we know. We understand, and we will take our own course, we are full of courage.' You are not full of courage. This House is the first House to give in whenever there is an unmistakable manifestation of opinion on the part of the constituencies. And so I believe nobody ought to prophesy. Nobody can say. But I believe it to be far from clear that you are not going to find yourselves faced by just

as violent a demonstration against you on this occasion as you had over the Trade Disputes Bill.

You may ask, is the present state of things satisfactory? No, it is not satisfactory, and it never will be satisfactory until workmen and employers come to be much more of one mind than they are at the present time. It is not enough to have mere profit-sharing. You ought to give the workman some chance of having a voice in the disposition of his own life and the conditions under which he works and lives. You have to bring the community together to consolidate. For years past I have held—and I have worked hard for it—that there is only one way of doing that, and that is to educate your democracy. Give them higher education, give them adult education, give them everything you can which will enable them to think, feel, and live on much the same level as the people who employ them. They do not ask for luxuries, they only ask for equality of chance in life, and they ask for it still more for their wives and children, who have not had the same opportunity as they have had themselves.

VIII
THE PEOPLE
THEIR REPRESENTATION

FREQUENCY OF GENERAL ELECTIONS

*SIR ROBERT WALPOLE (afterwards Earl of Orford)**House of Commons, 13 March 1734**(9 Parl. Hist. 473 ff.)*

[DEBATE on a motion to repeal the Septennial Act. Cf. No. 78.]

In general, I must take notice that the nature of our Constitution seems to be very much mistaken by the gentlemen who have spoken in favour of this motion. It is certain that ours is a mixt Government, and the perfection of our Constitution consists in this, that the monarchical, aristocratical and democratical forms of government are mixt and interwoven in ours, so as to give all the advantages of each without subjecting us to the dangers and inconveniences of either. The democratical form of government, which is the only one I have now occasion to take notice of, is liable to these inconveniences, that they are generally too tedious in their coming to any resolution, and seldom brisk and expeditious enough in carrying their resolutions into execution; that they are always wavering in their resolutions, and never steady in any of the measures they resolve to pursue; and that they are often involved in factions, seditions and insurrections, which expose them to be made the tools, if not the prey of their neighbours: therefore in all the regulations we make, with respect to our Constitution, we are to guard against running too much into that form of government which is properly called democratical: this was, in my opinion, the effect of the triennial law, and will again be the effect, if ever it should be restored.

That triennial elections would make our Government too tedious in all their resolves is evident, because in such case no prudent administration would ever resolve upon any measure of consequence till they had felt not only

the pulse of the Parliament, but the pulse of the people; and the Ministers of State would always labour under this disadvantage, that, as secrets of State must not be immediately divulged, their enemies (and enemies they will always have) would have a handle for exposing their measures, and rendering them disagreeable to the people, and thereby carrying perhaps a new election against them before they could have an opportunity of justifying their measures by divulging those facts and circumstances from whence the justice and the wisdom of their measures would clearly appear.

Then, Sir, it is by experience well known that what is called the populace of every country are apt to be too much elated with success and too much dejected with every misfortune; this makes them wavering in their opinions about affairs of State, and never long in the same mind: and, as this House is chosen by the unbiassed voice of the people in general, if this choice were so often renewed, we might expect that this House would be as wavering and as unsteady as the people usually are; and, it being impossible to carry on the public affairs of the nation without the concurrence of this House, the Ministers would always be obliged to comply, and consequently would be obliged to change their measures as often as the people changed their minds.

With septennial Parliaments, Sir, we are not exposed to either of these misfortunes, because, if the Ministers, after having felt the pulse of the Parliament, which they can always soon do, resolve upon any measures, they have generally time enough, before the new election comes on, to give the people a proper information, in order to shew them the justice and the wisdom of the measures they have pursued; and, if the people should at any time be too much elated, or too much dejected, or should without a cause change their minds, those at the helm of affairs have time to set them right, before a new election comes on.

As to faction and sedition, Sir, I will grant that in monarchical and aristocratical Governments, it generally

arises from violence and oppression; but, in democratical Governments, it always arises from the people's having too great a share in the Government: for, in all countries, and in all Governments, there always will be many factious and unquiet spirits, who can never be at rest either in power or out of power: when in power, they are never easy, unless every man submits entirely to their discretion; and, when out of power, they are always working and intriguing against those that are in, without any regard to justice, or to the interest of their country. In popular Governments such men have too much game; they have too many opportunities for working upon and corrupting the minds of the people, in order to give them a bad impression of, and to raise discontents against, those that have the management of the public affairs for the time; and these discontents often break out into seditions and insurrections.

This, Sir, would in my opinion be our misfortune, if our Parliaments were either annual or triennial: by such frequent elections there would be so much power thrown into the hands of the people, as would destroy that equal mixture which is the beauty of our Constitution: in short our Government would really become a democratical Government, and might from thence very probably diverge into a tyrannical. Therefore, in order to preserve our Constitution, in order to prevent our falling under tyranny and arbitrary power, we ought to preserve that law which I really think has brought our Constitution to a more equal mixture, and consequently greater perfection than it was ever in before that law took place.

CONSTITUENTS AND MEMBERS

*SIR WILLIAM YONGE**House of Commons, 23 January 1745**(13 Parl. Hist. 1076 ff.)*

[DEBATE on a motion for Annual Parliaments. Cf. No. 81.]

In former ages a seat in Parliament was so far from being thought advantageous that it was thought very burdensome upon the person chosen. Frequent elections could therefore in those days occasion no disturbances in the country; but, in these days, every one knows the violent contests that are raised in our counties and many of our populous cities and boroughs by a general election, especially when a party spirit happens to run high and the opposite candidates are pretty nearly equal. These contests are even at this time so violent that the peace of the country is often in danger of being disturbed: how great, how certain then would the danger be, if the heats and animosities raised upon such occasions had no time to subside? It was this danger chiefly that was the occasion of substituting septennial Parliaments in the place of triennial: many of us may remember the mobs and riots that were occasioned by the last two general elections in the Queen's reign, and the first after his late Majesty's accession. They were such as must make every man tremble that has any regard for the tranquillity of his country; and as I am old enough to have a very lively and a very terrible impression of them in my mind, I am sure I shall never be for repealing or altering any of those wise regulations by which a happy and a seasonable period was put to them. . . .

We are, it is true, the great and general inquisitors of the nation, and consequently are to take notice of, and

to lay, in a proper manner, before our Sovereign, all public grievances, as well as those which affect particularly the places we represent; but cannot we do this in septennial Parliaments which meet annually, as well as in Parliaments that are annually chosen? Supposing it is true that some members never see their constituents from the time they are chosen till they return to solicit their votes at a new election, which, I believe, is very rarely the case; is there not, or may there not be a constant intercourse by letters? Are not all letters from or to members of Parliament made free of postage for this very purpose? And may not a member of Parliament be by letters as fully informed of the sentiments and grievances of his constituents, as if he were present among them? As to those grievances which affect the country in general, he can know them no other way but by letters, for he cannot be present in every part of the kingdom; and a member, whose constant residence is in London, has a better opportunity of being informed and judging of such grievances than one who resides mostly at his seat in any remote part of the kingdom.

As to our duty in Parliament as inquisitors, therefore, we may perform it as well in a septennial as in an annual Parliament, if the former meets regularly once a year, and continues sitting till they have finished all the material business brought before them; and, as to our duty with respect to our Sovereign, surely, Sir, we may perform that duty, we may give our Sovereign the fullest information as to the sentiments of our constituents without going down to live among them, because, as regular posts are now established to every part of the kingdom, we may keep a constant correspondence with our constituents, and may know their sentiments of all public measures by their letters with more certainty, I think, than we could do by their conversation. Therefore, if the members of a septennial Parliament neglect to inform their Sovereign of the murmurings among the people, or, if they misrepresent to him the sentiments of the people, it cannot proceed from their ignorance, but

from some other cause, which would have the same effect in an annual as it has in a septennial Parliament.

Upon this occasion, Sir, as upon many others, the word Attorney has been artfully brought into the debate, as if the members of this House were nothing more than the attornies of the particular county, city, or borough, they respectively represent; but every one knows that, by our Constitution, after a gentleman is chosen, he is the representative, or, if you please, the attorney of the people of England, and as such is at full freedom to act as he thinks best for the people of England in general. He may receive, he may ask, he may even follow the advice of his particular constituents; but he is not obliged, nor ought he to follow their advice, if he thinks it inconsistent with the general interest of his country. He is in some respects, therefore, the attorney or servant of the people, in the same manner as an elective king or chief magistrate is the servant of the people; and there is no greater absurdity or impropriety in chusing a representative for a long term of years than in chusing a king or chief magistrate for a long term of years. In both cases, I shall grant, it is an inconvenience, and that the people have often cause to repent of the choice they have made before the expiration of the term; but this inconvenience must be submitted to for the sake of avoiding a much greater, I mean the continual disturbances that would be occasioned by frequent elections, and the fluctuation in all public measures that must necessarily ensue from a frequent change of public magistrates or representatives.

REFORM OF THE FRANCHISE

EARL OF CHATHAM

*House of Lords, 22 January 1770**(16 Parl. Hist. 753 ff.)*

[THE Earl of Chatham raised the question of Reform during a debate on the State of the Nation. He was the first statesman to make comprehensive proposals.]

Whoever understands the theory of the English Constitution, and will compare it with the fact, must see at once how widely they differ. We must reconcile them to each other, if we wish to save the liberties of this country; we must reduce our political practice, as nearly as possible, to our principles. The Constitution intended that there should be a permanent relation between the constituent and representative body of the people. Will any man affirm, that, as the House of Commons is now formed, that relation is in any degree preserved? My Lords, it is not preserved, it is destroyed. Let us be cautious, however, how we have recourse to violent expedients.

The boroughs of this country have properly enough been called the rotten parts of the Constitution. I have lived in Cornwall, and, without entering into any invidious particularity, have seen enough to justify the appellation. But in my judgment, my Lords, these boroughs, corrupt as they are, must be considered as the natural infirmity of the Constitution. Like the infirmities of the body, we must bear them with patience, and submit to carry them about with us. The limb is mortified, but amputation might be death.

Let us try, my Lords, whether some gentler remedies may not be discovered. Since we cannot cure the disorder, let us endeavour to infuse such a portion of new

health into the Constitution, as may enable it to support its most inveterate diseases.

The representation of the counties is, I think, still preserved pure and uncorrupted. That of the great cities is on a footing equally respectable; and there are many of the larger trading towns which still preserve their independence. The infusion of health, which I now allude to, would be to permit every county to elect one member more, in addition to their present representation. The knights of the shires approach nearest to the constitutional representation of the country, because they represent the soil. It is not in the little dependent boroughs, it is in the great cities and counties that the strength and vigour of the Constitution resides, and by them alone, if an unhappy question should ever rise, will the Constitution be honestly and firmly defended. I would increase that strength, because I think it is the only security we have against the profligacy of the times, the corruption of the people, and the ambition of the Crown.

FREQUENCY OF ELECTIONS

EDMUND BURKE

*House of Commons, 8 May 1780**(21 Parl. Hist. 603 ff.)*

[DEBATE on Mr. Sawbridge's motion for shortening the duration of Parliaments. Cf. No. 75.]

It is always to be lamented when men are driven to search into the foundations of the commonwealth. It is certainly necessary to resort to the theory of your Government, whenever you propose any alteration in the frame of it, whether that alteration means the revival of some former antiquated and forsaken Constitution of State, or the introduction of some new improvement in the commonwealth.

The object of our deliberation is, to promote the good purposes for which elections have been instituted, and to prevent their inconveniences. If we thought frequent elections attended with no inconvenience, or with but a trifling inconvenience, the strong overruling principle of the Constitution would sweep us like a torrent towards them. But your remedy is to be suited to your disease—your present disease, and to your whole disease. That man thinks much too highly, and therefore he thinks weakly and delusively, of any contrivance of human wisdom, who believes that it can make any sort of approach to perfection. There is not, there never was, a principle of government under heaven, that does not, in the very pursuit of the good it proposes, naturally and inevitably lead into some inconvenience, which makes it absolutely necessary to counterwork and weaken the application of that first principle itself; and to abandon something of the extent of the advantage you proposed by it, in order to prevent also the inconveniences, which have arisen from the instrument of all the good you had in view.

To govern according to the sense and agreeably to the interests of the people is a great and glorious object of government. This object cannot be obtained but through the medium of popular election; and popular election is a mighty evil. It is such, and so great an evil, that though there are few nations, whose monarchs were not originally elective, very few are now elected. They are the distempers of elections, that have destroyed all free States. To cure these distempers is difficult, if not impossible; the only thing therefore left to save the commonwealth is to prevent their return too frequently. The objects in view are, to have Parliaments as frequent as they can be without distracting them in the prosecution of public business; on one hand, to secure their dependence upon the people, on the other to give them that quiet in their minds, and that ease in their fortunes, as to enable them to perform the most arduous and most painful duty in the world with spirit, with efficiency, with independency, and with experience, as real public counsellors, not as the canvassers at a perpetual election. It is wise to compass as many good ends as possibly you can, and seeing there are inconveniences on both sides, with benefits on both, to give up a part of the benefit to soften the inconvenience. The perfect cure is impracticable, because the disorder is dear to those from whom alone the cure can possibly be derived. The utmost to be done is to palliate, to mitigate, to respite, to put off the evil day of the Constitution to its latest possible hour, and may it be a very late one.

This Bill, I fear, would precipitate one of two consequences, I know not which most likely, or which most dangerous; either that the Crown by its constant stated power, influence, and revenue, would wear out all opposition in elections, or that a violent and furious popular spirit would arise. I must see, to satisfy me, the remedies; I must see, from their operation in the cure of the old evil, and in the cure of those new evils, which are inseparable from all remedies, how they balance each other, and what is the total result. The excellence of

mathematics and metaphysics is to have but one thing before you; but he forms the best judgment in all moral disquisitions, who has the greatest number and variety of considerations in one view before him, and can take them in with the best possible consideration of the middle results of all.

We of the Opposition, who are not friends to the Bill, give this pledge at least of our integrity and sincerity to the people, that in our situation of systematic opposition to the present Ministers, in which all our hope of rendering it effectual depends upon popular interest and favour, we will not flatter them by a surrender of our uninfluenced judgment and opinion; we give a security, that if ever we should be in another situation, no flattery to any other sort of power and influence would induce us to act against the true interests of the people.

All are agreed that Parliaments should not be perpetual; the only question is, what is the most convenient time for their duration? On which there are three opinions. We are agreed, too, that the term ought not to be chosen most likely in its operation to spread corruption, and to augment the already overgrown influence of the Crown. On these principles I mean to debate the question. It is easy to pretend a zeal for liberty. Those, who think themselves not likely to be encumbered with the performance of their promises, either from their known inability, or total indifference about the performance, never fail to entertain the most lofty ideas. They are certainly the most specious, and they cost them neither reflection to frame, nor pains to modify, nor management to support. The task is of another nature to those who mean to promise nothing that it is not in their intention or may possibly be in their power, to perform; to those, who are bound and principled no more to delude the understandings than to violate the liberty of their fellow subjects. Faithful watchmen we ought to be over the rights and privileges of the people. But our duty, if we are qualified for it as we ought, is to give them information, and not to receive it from them;

we are not to go to school to them to learn the principles of law and government. In doing so, we should not dutifully serve, but we should basely and scandalously betray, the people, who are not capable of this service by nature, nor in any instance called to it by the Constitution. I reverently look up to the opinion of the people, and with an awe that is almost superstitious. I should be ashamed to show my face before them, if I changed my ground, as they cried up or cried down men, or things, or opinions; if I wavered and shifted about with every change, and joined in it, or opposed, as best answered any low interest or passion; if I held them up hopes, which I knew I never intended, or promised what I well knew I could not perform. Of all these things they are perfect sovereign judges, without appeal; but as to the detail of particular measures, or to any general schemes of policy, they have neither enough of speculation in the closet, nor of experience in business, to decide upon it. They can well see whether we are tools of a court, or their honest servants. Of that they can well judge; and I wish that they always exercised their judgment; but of the particular merits of a measure I have other standards. . . .

That the frequency of elections proposed by this Bill has a tendency to increase the power and consideration of the electors, not lessen corruptibility, I do most readily allow; so far it is desirable; this is what it has, I will tell you now what it has not: 1st. It has no sort of tendency to increase their integrity and public spirit, unless an increase of power has an operation upon voters in elections, that it has in no other situation in the world, and upon no other part of mankind. 2d. This Bill has no tendency to limit the quantity of influence in the Crown, to render its operation more difficult, or to counteract that operation, which it cannot prevent, in any way whatsoever. It has its full weight, its full range, and its uncontrolled operation on the electors exactly as it had before. 3d. Nor, thirdly, does it abate the interest or inclination of Ministers to apply that influence to the electors: on the contrary, it renders it much more necessary to them,

if they seek to have a majority in Parliament, to increase the means of that influence, and redouble their diligence, and to sharpen dexterity in the application. The whole effect of the Bill is therefore the removing the application of some part of the influence from the elected to the electors, and further to strengthen and extend a court interest already great and powerful in boroughs; here to fix their magazines and places of arms, and thus to make them the principal, not the secondary, theatre of their manœuvres for securing a determined majority in Parliament.

I believe nobody will deny that the electors are corruptible. They are men; it is saying nothing worse of them; many of them are but ill informed in their minds, many feeble in their circumstances, easily over-reached, easily seduced. If they are many, the wages of corruption are the lower; and would to God it were not rather a contemptible and hypocritical adulation than a charitable sentiment, to say that there is already no debauchery, no corruption, no bribery, no perjury, no blind fury, and interested faction among the electors in many parts of this kingdom: nor is it surprising, or at all blameable, in that class of private men, when they see their neighbours aggrandized, and themselves poor and virtuous without that *éclat* or dignity, which attends men in higher situations.

But admit it were true that the great mass of the electors were too vast an object for Court influence to grasp, or extend to, and that in despair they must abandon it; he must be very ignorant of the state of every popular interest, who does not know that in all the corporations, all the open boroughs, indeed in every district of the kingdom, there is some leading man, some agitator, some wealthy merchant, or considerable manufacturer, some active attorney, some popular preacher, some money-lender, &c. &c. who is followed by the whole flock. This is the style of all free countries.

Multùm in Fabiâ valet hic, valet ille Velinâ;
Cuilibet hic fasces dabit eripietque curule.

These spirits, each of which informs and governs his own little orb, are neither so many, nor so little powerful, nor so incorruptible, but that a Minister may, as he does frequently, find means of gaining them, and through them all their followers. To establish, therefore, a very general influence among electors will no more be found an impracticable project, than to gain an undue influence over members of Parliament. Therefore I am apprehensive that this Bill, though it shifts the place of the disorder, does by no means relieve the Constitution. I went through almost every contested election in the beginning of this Parliament, and acted as a manager in very many of them; by which, though as at a school of pretty severe and rugged discipline, I came to have some degree of instruction concerning the means by which parliamentary interests are in general procured and supported.

Theory, I know, would suppose, that every general election is to the representative a day of judgment, in which he appears before his constituents to account for the use of the talent, with which they intrusted him, and of the improvement he has made of it for the public advantage. It would be so, if every corruptible representative were to find an enlightened and incorruptible constituent. But the practice and knowledge of the world will not suffer us to be ignorant, that the Constitution on paper is one thing, and in fact and experience is another. We must know that the candidate, instead of trusting at his election to the testimony of his behaviour in Parliament, must bring the testimony of a large sum of money, the capacity of liberal expence in entertainments, the power of serving and obliging the rulers of corporations, of winning over the popular leaders of political clubs, associations, and neighbourhoods. It is ten thousand times more necessary to show himself a man of power, than a man of integrity, in almost all the elections with which I have been acquainted. Elections, therefore, become a matter of heavy expence; and if contests are frequent, to many they will become a matter of an expence totally ruinous, which no fortunes can bear; but least of

all the landed fortunes, encumbered as they often, indeed as they mostly, are with debts, with portions, with jointures; and tied up in the hands of the possessor by the limitations of settlement. It is a material, it is in my opinion a lasting, consideration, in all the questions concerning election. Let no one think the charges of elections a trivial matter.

The charge therefore of elections ought never to be lost sight of, in a question concerning their frequency; because the grand object you seek is independence. Independence of mind will ever be more or less influenced by independence of fortune; and if, every three years, the exhausting sluices of entertainments, drinkings, open houses, to say nothing of bribery, are to be periodically drawn up and renewed; if Government-favours, for which now, in some shape or other, the whole race of men are candidates, are to be called for upon every occasion, I see that private fortunes will be washed away, and every, even to the least, trace of independence borne down by the torrent. I do not seriously think this Constitution, even to the wrecks of it, could survive five triennial elections. If you are to fight the battle, you must put on the armour of the Ministry; you must call in the public, to the aid of private money. The expence of the last election has been computed (and I am persuaded that it has not been over-rated) at 1,500,000£.;—three shillings in the pound more than the land tax. About the close of the last Parliament, and the beginning of this, several agents for boroughs went about, and I remember well that it was in every one of their mouths—‘Sir, your election will cost you 3,000£. if you are independent; but if the Ministry supports you, it may be done for two, and perhaps for less,’ and indeed, the thing spoke itself. Where a living was to be got for one, a commission in the army for another, a lift in the navy for a third, and Custom-house offices scattered about without measure or number, who doubts but money may be saved? The Treasury may even add money; but indeed it is superfluous. A gentleman of 2,000£. a year, who meets another of the same

fortune, fights with equal arms; but if to one of the candidates you add a thousand a year in places for himself, and a power of giving away as much among others, one must, or there is no truth in arithmetical demonstration, ruin his adversary, if he is to meet him and to fight with him every third year. It will be said, I do not allow for the operation of character; but I do; and I know it will have its weight in most elections; perhaps it may be decisive in some. But there are few in which it will prevent great expences.

The destruction of independent fortunes will be the consequence on the part of the candidate. What will be the consequence of triennial corruption, triennial drunkenness, triennial idleness, triennial law-suits, litigations, prosecutions, triennial phrenzy, of society dissolved, industry interrupted, ruined; of those personal hatreds, that will never be suffered to soften; those animosities and feuds, which will be rendered immortal; those quarrels, which are never to be appeased; morals vitiated and gangrened to the vitals? I think no stable and useful advantages were ever made by the money got at elections by the voter, but all he gets is doubly lost to the public; it is money given to diminish the general stock of the community, which is in the industry of the subject. I am sure that it is a good while before he or his family settle again to their business. Their heads will never cool; the temptations of elections will be for ever glittering before their eyes. They will all grow politicians; every one, quitting his business, will choose to enrich himself by his vote. They will all take the gauging-rod; new places will be made for them; they will run to the Custom-house quay, their looms and ploughs will be deserted.

So was Rome destroyed by the disorders of continual elections, though those of Rome were sober disorders. They had nothing but faction, bribery, bread and stage plays, to debauch them. We have the inflammation of liquor superadded, a fury hotter than any of them. There the contest was only between citizen and citizen; here you have the contests of ambitious citizens of one side,

supported by the Crown, to oppose to the efforts (let it be so) of private and unsupported ambition on the other. Yet Rome was destroyed by the frequency and charge of elections, and the monstrous expence of an unremitted courtship to the people. I think, therefore, the independent candidate and elector may each be destroyed by it; the whole body of the community be an infinite sufferer; and a vicious Ministry the only gainer. Gentlemen, I know, feel the weight of this argument; they agree that this would be the consequence of more frequent elections, if things were to continue as they are. But they think the greatness and frequency of the evil would itself be a remedy for it; that, sitting but for a short time, the member would not find it worth while to make such vast expences, while the fear of their constituents will hold them the more effectually to their duty.

To this I answer, that experience is full against them. This is no new thing; we have had triennial Parliaments; at no period of time were seats more eagerly contested. The expences of elections ran higher, taking the state of all charges, than they do now. The expence of entertainments was such, that an Act, equally severe and ineffectual, was made against it; every monument of the time bears witness of the expence, and most of the Acts against corruption in elections were then made; all the writers talked of it and lamented it. Will any one think that a corporation will be contented with a bowl of punch, or a piece of beef the less, because elections are every three, instead of every seven years? Will they change their wine for ale, because they are to get more ale three years hence? Don't think it. Will they make fewer demands for the advantages of patronage in favours and offices, because their member is brought more under their power? We have not only our own historical experience in England upon this subject, but we have the experience co-existing with us in Ireland: where, since their Parliament has been shortened, the expence of elections has been so far from being lowered, that it has been very near doubled. Formerly they sat for the King's life; the

ordinary charge of a seat in Parliament was then 1,500£. They now sit eight years, four sessions; it is now 2,500£. and upwards. The spirit of emulation has also been extremely increased, and all who are acquainted with the tone of that country have no doubt that the spirit is still growing; that new candidates will take the field; that the contests will be more violent, and the expences of elections larger than ever.

It never can be otherwise. A seat in this House, for good purposes, for bad purposes, for no purposes at all (except the mere consideration derived from being concerned in the public counsels) will ever be a first-rate object of ambition in England. Ambition is no exact calculator. Avarice itself does not calculate strictly when it games. One thing is certain, that in this political game the great lottery of power is that into which men will purchase with millions of chances against them. In Turkey, where the place, where the fortune, where the head itself, are so insecure, that scarcely any have died in their beds for ages; so that the bow-string is the natural death of Bashaws, yet in no country is power and distinction (precarious enough, God knows, in all) sought for with such boundless avidity, as if the value of place was enhanced by the danger and insecurity of its tenure. Nothing will ever make a seat in this House not an object of desire to numbers by any means or at any charge, but the depriving it of all power and all dignity; this would do it. This is the true and only nostrum for that purpose. But a House of Commons without power and without dignity, either in itself or its members, is no House of Commons for the purpose of this Constitution.

But they will be afraid to act ill, if they know that the day of their account is always near. I wish it were true; but it is not; here again we have experience, and experience is against us. The distemper of this age is a poverty of spirit and of genius; it is trifling, it is futile, worse than ignorant, superficially taught; with the politics and morals of girls at a boarding-school, rather than of men and statesmen; but it is not yet desperately wicked, or so

scandalously venal as in former times. Did not a triennial Parliament give up the national dignity, approve the Peace of Utrecht, and almost give up every thing else in taking every step to defeat the Protestant succession? Was not the Constitution saved by those who had no election at all to go to, the Lords, because the Court applied to electors, and by various means carried them from their true interests; so that the Tory Ministry had a majority without an application to a single member? Now as to the conduct of the members, it was then far from pure and independent. Bribery was infinitely more flagrant. A predecessor of yours, Mr. Speaker, put the question of his own expulsion for bribery. Sir William Musgrave was a wise man; a grave man; an independent man; a man of good fortune and good family; however he carried on while in opposition a traffic, a shameful traffic with the Ministry. Bishop Burnet knew of 6,000£. which he had received at one payment. I believe the payment of sums in hard money, plain naked bribery, is rare amongst us. It was then far from uncommon.

A triennial was near ruining, a septennial Parliament saved your Constitution; nor perhaps have you ever known a more flourishing period for the union of national prosperity, dignity and liberty, than the sixty years you have passed under that constitution of Parliament.

The shortness of time, in which they are to reap the profits of iniquity, is far from checking the avidity of corrupt men; it renders them infinitely more ravenous. They rush violently and precipitately on their object; they lose all regard to decorum. The moments of profits are precious; never are men so wicked as during a general mortality. It was so in the great plague at Athens; every symptom of which (and this its worst symptom amongst the rest) is so finely related by a great historian of antiquity. It was so in the plague of London in 1665. It appears in soldiers, sailors, &c. Whoever would contrive to render the life of man much shorter than it is, would, I am satisfied, find the surest receipt for increasing the wickedness of our nature.

Thus, in my opinion, the shortness of a triennial sitting would have the following ill effects: it would make the member more shamelessly and shockingly corrupt; it would increase his dependence on those who could best support him at his election; it would wrack and tear to pieces the fortunes of those who stood upon their own fortunes and their private interest; it would make the electors infinitely more venal; and it would make the whole body of people, who are, whether they have votes or not, concerned in elections, more lawless, more idle, more debauched: it would utterly destroy the sobriety, the industry, the integrity, the simplicity of all the people; and undermine, I am much afraid, the deepest and best laid foundations of the commonwealth.

REFORM OF THE FRANCHISE

*WILLIAM PITT**House of Commons, 7 May 1782**(22 Parl. Hist. 1417 ff.)*

[PITT made a tentative advance on the question of Reform by moving for the appointment of a Committee to inquire into the state of the representation. The motion was lost by 20 votes.]

That the frame of our Constitution has undergone material alterations, by which the Commons' House of Parliament has received an improper and dangerous bias, and by which, indeed, it has fallen so greatly from that direction and effect which it was intended, and ought to have in the Constitution, I believe it would be idle for me to attempt to prove. It is a fact so plain and palpable, that every man's reason, if not his experience, must point it out to him. I have only to examine the quality and nature of that branch of the Constitution as originally established, and compare it with its present state and condition. That beautiful frame of government which has made us the envy and admiration of mankind, in which the people were entitled to hold so distinguished a share, is so far dwindled and has so far departed from its original purity, as that the representatives ceased, in a great degree, to be connected with the people. It is of the essence of the Constitution, that the people should have a share in the government by the means of representation; and its excellence and permanency is calculated to consist in this representation, having been designed to be equal, easy, practicable, and complete. When it ceased to be so; when the representative ceased to have connection with the constituent, and was either dependent on the Crown or the aristocracy, there was a defect in the

frame of representation, and it is not innovation, but recovery of constitution, to repair it. . . .

It is perfectly understood, that there are some boroughs absolutely governed by the Treasury, and others totally possessed by them. It requires no experience to say that such boroughs have no one quality of representation in them; they have no share nor substance in the general interests of the country; and they have in fact no stake for which to appoint their guardians in the popular assembly. The influence of the Treasury in some boroughs is contested, not by the electors of these boroughs, but by some one or other powerful man, who assumes or pretends to an hereditary property of what ought only to be the rights and privileges of the electors. The interests of the Treasury are considered as well as the interests of the great man, the lord or the commoner who has connection with the borough; but the interests of the people, the rights of the electors, are the only things that never are attended to, nor taken into the account. Will any man say that, in this case, there is the most distant idea or principle of representation? There are other boroughs which have now, in fact, no actual existence, but in the return of members to the House. They have no existence in property, in population, in trade, in weight. There are hardly any men in the borough who have a right to vote; and they are the slaves and subjects of a person who claims the property of the borough, and who in fact makes the return. This also is no representation, nor any thing like it.

Another set of boroughs and towns, in the lofty possession of English freedom, claim to themselves the right of bringing their votes to market. They have no other market, no other property, and no other stake in the country, than the property and price which they procure for their votes. Such boroughs are the most dangerous of all others. So far from consulting the interests of their country in the choice which they make, they hold out their borough to the best purchaser, and, in fact, they belong more to the nabob of Arcot than they do to the

people of Great Britain. They are cities and boroughs more within the jurisdiction of the Carnatic than the limits of the Empire of Great Britain; and it is a fact pretty well known, and generally understood, that the nabob of Arcot has no less than seven or eight members in this House. Such boroughs, then, are sources of corruption; they give rise to an inundation of corrupt wealth, and corrupt members, who have no regard nor connection, either for or with the people of this kingdom. It has always been considered, in all nations, as the greatest source of danger to a kingdom, when a foreign influence is suffered to creep into the national councils. The fact is clear, that the influence of the nabobs of India is great; why then may not your imaginations point out to you another most probable circumstance that may occur, the danger of which would be evident, as soon as mentioned? May not a foreign State in enmity with this country, by means of these boroughs, procure a party of men to act for them under the mask and character of members of this House? . . .

It has been thought by some, that the best means of effecting a more near relation between the representatives and the people, is to take from the decayed and corrupt boroughs a part of their members, and add them to those places which have more interest and stake in the country. Another mode of making the connection between the representative and Constitution more lively and intimate, is to bring the former more frequently before the electors, by shortening the duration of Parliament. But all these propositions I will beg leave, for the present, to omit entirely, and to deliver the matter to the Committee to be chosen free from all suggestions whatever, that they may exercise their own judgment, and collect, from the lights which they will receive, full and complete information on the subject. I will therefore content myself with saying, that having mentioned the manner in which I will take the liberty of proposing to institute this enquiry, I hope that I shall be forgiven for taking up this important business. The matter of complaint is clear to me; and I

am strengthened in my opinion from the advice of some of the first and greatest characters in the kingdom. The assistance which I have received, I acknowledge with gratitude, as it fortified my mind in regard to the opinions which I have formed on the subject. It was also the opinion of many respectable characters, now no more, and particularly of one, of whom every member in the House can speak with more freedom than myself. [His father, the earl of Chatham.] That person was not apt to indulge vague and chimerical speculations, inconsistent with practice and expediency. I personally know, that it was the opinion of that person, that without recurring to first principles in this respect, and establishing a more solid and equal representation of the people, by which the proper constitutional connection should be revived, this nation, with the best capacities for grandeur and happiness of any on the face of the earth, must be confounded with the mass of those whose liberties were lost in the corruption of the people.

With regard to the time at which I have brought it on, I am convinced that it is the most proper and seasonable moment that can be imagined. If it had been brought forward during an eager opposition to the measures of government, it might have been considered as the object of spite, or peevishness; and if under such circumstances we had prevailed, it would have been said to be carried by assault. But now there is no division of sentiment; His Majesty's Ministers respect the voice of the people, and are anxiously bent on the reformation of Parliament. If there is any division of opinion at all, it is about the means of accomplishing the object. I conclude with moving, 'That a committee be appointed to enquire into the present State of the Representation of the Commons of Great Britain in parliament, to report the same to the House, and likewise what steps in their opinion it may be proper for parliament to take concerning the same.'

REFORM OF THE FRANCHISE

WILLIAM PITT

*House of Commons, 7 May 1783**(23 Parl. Hist., 829 ff.)*

[PITT followed up his motion of the previous year by submitting Resolutions dealing with Reform. They were negatived by a majority of 144 votes.]

An Englishman, who should compare the flourishing state of his country some twenty years ago with the state of humiliation in which he now beholds her, must be convinced that the ruin which he now deplotes, having been brought on by slow degrees, and almost imperceptibly, proceeded from something radically wrong in the Constitution. Of the existence of a radical error no one seems to doubt; nay, almost all are so clearly satisfied of it, that various remedies have been devised by those who wish most heartily to remove it.

The House itself has discovered, that a secret influence of the Crown is sapping the very foundation of liberty by corruption: the influence of the Crown has been felt within these walls, and has often been found strong enough to stifle the sense of duty, and to over-rule the propositions made to satisfy the wishes and desires of the people; the House of Commons (in former Parliaments) has been base enough to feed the influence that enslaved its members: and thus was at one time the parent and the offspring of corruption. This influence, however, has risen to such a height, that men are ashamed any longer to deny its existence, and the House has at length been driven to the necessity of voting that it ought to be diminished.

Various are the expedients that have been thought of, in order to effect so salutary a purpose as is that of guarding against this influence; of shutting against it the

doors of that House, where, if it once got footing, after the Resolution alluded to, liberty could no longer find an asylum. The House of Commons, which, according to the true spirit of the Constitution, should be the guardian of the people's freedom, the constitutional check and control over the executive power, would, through this influence, degenerate into a mere engine of tyranny and oppression, to destroy the Constitution in effect, though it should, in its outward form, still remain.

Among the various expedients that have been devised to bar the entrance of such influence into that House, I have heard principally of three. One is, to extend the right of voting for members to serve in Parliament, which is now so confined, to all the inhabitants of the kingdom indiscriminately, so that every man, without the distinction of freeholder, or freeman of a corporation, shall have the franchise of a vote for a person to represent him in Parliament:—and this mode, I understand, is thought by those who patronize it to be the only one that is consistent with true liberty in a free constitution, where every one ought to be governed by those laws only to which all have actually given their consent, either in person, or by their representative. For myself, I utterly reject and condemn this mode, which it is impossible for me to adopt without libelling those renowned forefathers who had framed the Constitution in the fulness of their wisdom and fashioned it for the government of freemen, not of slaves. If this doctrine shall obtain, nearly one half of the people must in fact be slaves; for it is absolutely impossible that this idea of giving to every man a right of voting, however finely it may appear in theory, can ever be reduced to practice. But, though it were ever practicable, still one half of the nation would be slaves, for all those who vote for the unsuccessful candidate cannot, in the strictness of this doctrine, be said to be represented in Parliament; and therefore they are governed by laws to which they give not their assent, either in person or by representatives; consequently, according to the ideas of the friends to this expedient, all those who

vote for unsuccessful candidates must be slaves; nay, it is oftentimes still harder with those who are members of Parliament, who are made slaves also, and are governed by laws to which they not only have not given their consent, but against which they have actually voted.

For my part, my idea of representation is this, that the members once chosen, and returned to Parliament, are, in effect, the representatives of the people at large, as well of those who do not vote at all, or who, having voted, give their votes against them, as of those by whose suffrages they are actually seated in the House. This being therefore my principle I cannot consent to an innovation founded on doctrines subversive of liberty, which in reality go so far as to say, that this House of Commons is not, and that no House of Commons ever has been, a true and constitutional representation of the people; for no House of Commons has yet been elected by all the men in the kingdom. The country has long prospered, and has even attained the summit of glory, though this doctrine has never been embraced; and I hope that no one will ever attempt to introduce it into the laws of England, or treat it in any other light than as a mere speculative proposition, that may be good in theory, but which it would be absurd and chimerical to endeavour to reduce to practice.

The second expedient I have heard of, is to abolish the franchise which several boroughs now enjoy, of returning members to serve in Parliament. These places are known by the favourite, popular appellation of rotten boroughs. I confess that there is something very plausible in this idea; but still I am not ready to adopt it; I hold these boroughs in the light of deformities, which in some degree disfigured the fabric of the Constitution, but which I fear cannot be removed without endangering the whole pile. It is true that the representation of the people cannot be perfect, nay, it cannot be good, unless the interests of the representatives and the represented are the same; the moment they become different, from that moment the liberty of the people is in danger; because those who ought to be

the guardians of it may find their account in circumscribing it within narrower limits than the Constitution marks out, or in carrying through measures, which may in the end effectually destroy it. It must be admitted, from a variety of circumstances, which it is unnecessary for me at present to explain, that though the members returned by boroughs may be for the present the brightest patterns of patriotism and liberty, still there is no doubt but that borough members, considered in the abstract, are more liable to the operation of that influence, which every good man wishes to see destroyed in this House, than those members who are returned by the counties; and therefore, though I am afraid to cut up the roots of this influence by disfranchising the boroughs, because I am afraid of doing more harm than good by using a remedy that may be thought worse than the disease, still I think it my duty to counteract, if possible, that influence, the instruments of which I am afraid to remove. The boroughs ought to be considered not only as places of franchise, but also as places where the franchise is in some measure connected with property by burgage tenure; and, therefore, as I am unwilling to dissolve the boroughs, I would endeavour to defeat the effect of undue influence in them, by introducing and establishing a counterbalance, that should keep it down and prevent it from ruining the country.

This brings me naturally to the third expedient, that I have often heard mentioned; which is to add a certain number of members to the House, who should be returned by the counties and the metropolis. It is unnecessary for me to say, that the county members, in general, are almost necessarily taken from that class and description of gentlemen the least liable to the seduction of corrupt influence, the most deeply interested in the liberty and prosperity of the country, and, consequently, the most likely to pursue such measures, as appear to them the most salutary to their country: in the hands of such men, the liberties of their constituents would be safe, because the interests of such representatives, and the

represented, must necessarily be the same. This expedient appears to me the most fit to be adopted, because it is the least objectionable; it has the merit of promising an effectual counterbalance to the weight of the boroughs, without being an innovation in the form of the Constitution. I will not then say what number of members ought to be added to the counties; I will leave that to be inserted in a Bill, which, if the Resolutions I mean to propose shall pass, I intend to move for leave to bring in; I, however, will say that, in my opinion, the number ought not to be under one hundred. It is true, I think the House will then be more numerous than I could wish; but still it were better it should be so, than that the liberty of the country should be exposed to destruction from the baleful influence of the Crown in the boroughs.

I am not, however, without an expedient, by degrees, to reduce the number of members, even after the addition, down to nearly the present number: my expedient is this; that whenever it shall be proved before the tribunal, which happily is now established by law, to try the merits of contested elections, that the majority of any borough has been bribed and corrupted, the borough shall then lose the privilege of sending members of Parliament; the corrupt majority shall be disfranchised, and the honest minority be permitted to vote at elections for knights of the shire. By this expedient, I am sure the boroughs will be preserved free from corruption; or else they must be abolished gradually, and the number of members of this House be reduced to its present standard. This disfranchising of boroughs would be the work of time: the necessity of disfranchising any one, whenever that necessity should appear, would sanctify the measure; it would appear to be, what, in fact, it would then be, an act of justice, not of whim, party, or caprice, as it would be founded not on surmise, but on the actual proof of guilt.

CONSTITUENTS AND MEMBERS

CHARLES JAMES FOX

House of Commons, 26 May 1797(33 *Parl. Hist.* 709 ff.)

[DEBATE on Grey's motion for Reform, which was lost by a large majority. Fox's remarks on Reform included some important views on the relation between members and their constituents. Cf. No. 76.]

It is a notable argument, that because we do not find, at the general election, very material changes in the representation, the sentiments of the people continue the same, in favour of the war, and in favour of His Majesty's Ministers. The very ground of the present discussion gives the answer to this argument. Why do we agitate the question of parliamentary reform? Why, but because a general election does not afford to the people the means of expressing their voice; because this House is not a sufficient representative of the people. Gentlemen are fond of arguing in this circle. When we contend that Ministers have not the confidence of the people, they tell us that Parliament is the faithful representatives of the sense of the country. When we assert that the representation is defective, and show, from the petitions to the Throne, that the House does not speak the voice of the people, they turn to the general election, and say, that at this period they had an opportunity of choosing faithful organs of their opinion; and because very little or no change has taken place in the representation, the sense of the people must be the same.

Sir, it is vain for gentlemen to shelter themselves by this mode of reasoning. We assert, that under the present form and practice of elections, we cannot expect to see any remarkable change produced by a general election. We must argue from experience. Let us look back to the

period of the American war. It will not be denied by the right hon. Gentleman, that towards the end of that war, it became extremely unpopular, and that the King's Ministers lost the confidence of the nation. In the year 1780 a dissolution took place, and then it was naturally imagined by superficial observers, who did not examine the real state of representation, that the people would have returned a Parliament that would have unequivocally spoken their sentiments on the occasion. What was the case? I am able to speak with considerable precision. At that time I was much more than I am at present in the way of knowing personally the individuals returned, and of making an accurate estimate of the accession gained to the popular side by that election. I can take upon me to say, that the change was very small indeed: not more than three or four persons were added to the number of those who had from the beginning opposed the disastrous career of the Ministers in that war. . . .

It has often been a question, both within and without these walls, how far representatives ought to be bound by the instructions of their constituents. It is a question upon which my mind is not altogether made up, though I own I lean to the opinion, that, having to legislate for the Empire, they ought not to be altogether guided by instructions that may be dictated by local interests. I cannot, however, approve of the very ungracious manner in which I sometimes hear expressions of contempt of the opinion of constituents. They are made with a very bad grace in the first session of a septennial Parliament, particularly if they should come from individuals who in the concluding session of a former Parliament did not scruple to court the favour of the very same constituents, by declaring that they voted against their conscience in compliance with their desire, as was the case of an hon. alderman of the city of London. But, Sir, there is one class of constituents whose instructions it is considered as the implicit duty of members to obey. When gentlemen represent populous towns and cities, then it is a disputed point, whether they ought to obey their voice, or follow

the dictates of their own conscience; but, if they represent a noble lord or a noble duke, then it becomes no longer a question of doubt; and he is not considered as a man of honour who does not implicitly obey the orders of a single constituent. He is to have no conscience, no liberty, no discretion of his own, he is sent here by my lord this, or the duke of that, and if he does not obey the instructions he receives, he is not to be considered as a man of honour and a gentleman. Such is the mode of reasoning that prevails in this House? Is this fair? Is there any reciprocity in this conduct? Is a gentleman to be permitted, without dishonour, to act in opposition to the sentiments of the city of London, of the city of Westminster, or of Bristol; but if he dares to disagree with the duke, or lord, or baronet, whose representative he is, he must be considered as unfit for the society of men of honour.

REFORM OF THE FRANCHISE

*LORD JOHN RUSSELL (afterwards Earl Russell)**House of Commons, 1 March 1831**(2 Parl. Deb., 3 s., 1062 ff.)*

[LORD JOHN RUSSELL's speech introducing the ministerial plan for Reform was most effective in its element of surprise. The Opposition were amazed at what they regarded as the daring extent of the plan; and Peel has been described as, at the end of the speech, burying his head in his hands, overcome with mortification.]

It will not be necessary, on this occasion, that I should go over the arguments which have been so often urged in favour of parliamentary Reform: but it is due to the question, that I should state shortly the chief points of the general argument on which the reformers rest their claim. Looking at the question, then, as a question of right, the ancient Statutes of Edward 1st contain the germ and vital principle of our political Constitution. The 25th of Edward 1st, ch. 6, declares, in the name of the King, that 'for no business from henceforth we should take such manner of aids, tasks, nor prizes, but by the common assent of the realm, and for the common profit thereof, saving the ancient aids and prizes due and accustomed.' The 34th Edward 1st, commonly called the Statute de Tallagio Non Concedendo, provides, 'that no tallage or aid shall be taken or levied, by us or our heirs, in our realm, without the good will and assent of archbishops, bishops, earls, barons, knights, burgesses, and other freemen of the land.' Although some historical doubts have been thrown upon the authenticity of this Statute, its validity in point of law is asserted in the Petition of Rights, was allowed by the Judges in the case of Hampden, and is, in fact, the foundation of the Constitution, as it has existed since the days of the Stuarts.

To revert again, for a moment, to ancient times; the consent of the commonalty of the land, thus declared necessary for the grant of any aid or tax, was collected from their representatives consisting of two knights from each county, from each city two citizens, and from every borough two burgesses. For 250 years, the constant number of boroughs so sending their representatives was about 120. Some thirty or forty others occasionally exercised or discontinued that practice or privilege, as they rose or fell in wealth and importance. How this construction of the House of Commons underwent various changes, till the principle on which it was founded was lost sight of, I will not now detain the House by explaining. There can be no doubt, however, that at the beginning of the period I have alluded to, the House of Commons did represent the people of England. No man of common sense pretends that this Assembly now represents the commonalty or people of England. If it be a question of right, therefore, right is in favour of Reform.

Let us now look at the question as one of reason. Allow me to imagine, for a moment, a stranger from some distant country, who should arrive in England to examine our institutions. All the information he had collected would have told him that this country was singular for the degree which it had attained in wealth, in science, and in civilization. He would have learned, that in no country have the arts of life been carried further, nowhere the inventions of mechanical skill been rendered more conducive to the comfort and prosperity of mankind. He would have made himself acquainted with its fame in history, and above all, he would have been told, that the proudest boast of this celebrated country was its political freedom. If, in addition to this, he had heard that once in six years this country, so wise, so renowned, so free, chose its representatives to sit in the great Council, where all the ministerial affairs were discussed and determined, he would not be a little curious to see the process by which so important and solemn an operation was effected. What then would be his surprise,

if he were taken by his guide, whom he had asked to conduct him to one of the places of election, to a green mound and told, that this green mound sent two members to Parliament—or, to be taken to a stone wall, with three niches in it, and told that these three niches sent two members to Parliament—or, if he were shown a green park, with many signs of flourishing vegetable life, but none of human habitation, and told that this green park sent two members to Parliament? But his surprise would increase to astonishment if he were carried into the north of England, where he would see large flourishing towns, full of trade and activity, containing vast magazines of wealth and manufactures, and were told that these places had no representatives in the Assembly which was said to represent the people. Suppose him, after all, for I will not disguise any part of the case, suppose him to ask for a specimen of popular election, and to be carried, for that purpose, to Liverpool; his surprise would be turned into disgust at the gross venality and corruption which he would find to pervade the electors. After seeing all this, would he not wonder that a nation which had made such progress in every kind of knowledge, and which valued itself for its freedom, should permit so absurd and defective a system of representation any longer to prevail?

But whenever arguments of this kind have been urged, it has been replied, and Mr. Canning placed his opposition to Reform on this ground, 'We agree, that the House of Commons is not, in fact, sent here by the people—we agree that, in point of reason, the system by which it is sent is full of anomaly and absurdity—but Government is a matter of experience, and so long as the people are satisfied with the actual working of the House of Commons, it would be unwise to embark in theoretical change.' Of this argument, I confess, I always felt the weight, and so long as the people did not answer the appeals of the friends of Reform, it was indeed an argument not to be resisted. But what is the case at this moment? The whole people call loudly for Reform.

That confidence, whatever it was, which formerly existed in the constitution of this House, exists no longer—it is completely at an end. Whatever may be thought of the particular acts of the House of Commons, I repeat that the confidence of the country in the construction and constitution of the House of Commons is gone—and gone for ever. I would say more—I affirm that it would be easier to transfer the flourishing manufactories of Leeds and Manchester to Gatton and Old Sarum, than to re-establish the confidence and sympathy between this House and those whom it calls its constituents.

I end this argument, therefore, by saying, that if the question be one of right, right is in favour of Reform—if it be a question of reason, reason is in favour of Reform—if it be a question of policy and expediency, policy and expediency speak loudly for Reform.

[Lord John Russell proceeded to outline the provisions of the Bill.]

It is my opinion . . . that the whole measure will add to the constituency of the Commons House of Parliament, about half a million of persons, and these all connected with the property of the country, having a valuable stake amongst us, and deeply interested in our institutions. They are the persons upon whom we can depend in any future struggle in which this nation may be engaged, and who will maintain and support Parliament and the Throne in carrying that struggle to a successful termination. I think that those measures will produce a farther benefit to the people, by the great incitement which it will occasion to industry and good conduct. For when a man finds, that by industrious exertion, and by punctuality, he will entitle himself to a place in the list of voters, he will have an additional motive to improve his circumstances, and to preserve his character amongst his neighbours. I think, therefore, that in adding to the constituency, we are providing for the moral as well as for the political improvement of the country. . . .

I shall be told in the first place, that we overturn the institutions of our ancestors. I maintain, that in departing

from the letter, we preserve the spirit of those institutions. Our opponents say, our ancestors gave Old Sarum representatives, therefore we should give Old Sarum representatives.—We say, our ancestors gave Old Sarum representatives, because it *was* a large town; therefore we give representatives to Manchester, which *is* a large town. I think we are acting more as our ancestors would have acted, by letting in representatives for our great commercial and manufacturing towns, than by excluding such representatives. I may be told, that the proposed Reform is contrary to the principle of Parliament, as settled at the time of the Revolution; and Mr. Burke may be quoted in support of the proposition, that as the same places continue to send representatives, the principle of the Constitution must be the same. But whilst I acknowledge Mr. Burke's transcendant ability and unequalled powers of reasoning, I cannot approve of his mode of arguing this question. He might as well have held, that the principles of the Roman Empire in the time of Augustus, were the same as the principles of the Roman Republic in the days of the first Brutus, as to say, that because Old Sarum, from its size and importance in the time of Edward 3rd, sent representatives to Parliament, it should continue to send those representatives, or else we should no longer follow up the principle of our ancestors in forming the constitution of this House.

It has been asserted also, if a Reform were to be effected, that many men of great talents, who now get into this House for close boroughs, would not be able to procure seats. I have never entertained any apprehensions of the sort, for I believe that no Reform that can be introduced will have the effect of preventing wealth, probity, learning, and wit, from having their proper influence upon elections. My learned and hon. Friend near me, his Majesty's Attorney General, is an illustrious instance that, in large and populous boroughs, lawyers of eminence, and gentlemen of great talents and public spirit, will be spontaneously chosen.

It may be said, too, that one great and injurious effect

of the measures I propose will be to destroy the power and privileges of the aristocracy. This I deny. I utterly deny that this plan can have any such effect. Wherever the aristocracy reside, receiving large incomes, performing important duties, relieving the poor by charity, and evincing private worth and public virtue, it is not in human nature that they should not possess a great influence upon public opinion, and have an equal weight in electing persons to serve their country in Parliament. Though such persons may not have the direct nomination of members under this Bill, I contend that they will have as much influence as they ought to have. But if by aristocracy those persons are meant who do not live among the people, who know nothing of the people, and who care nothing for them—who seek honours without merit, places without duty, and pensions without service—for such an aristocracy I have no sympathy; and I think, the sooner its influence is carried away with the corruption on which it has thriven, the better for the country, in which it has repressed so long every wholesome and invigorating influence.

Language has been held on this subject, which I hope will not be heard in future. A call has been made upon the aristocracy—all who are connected with it have been summoned to make a stand against the people. Some persons have even ventured to say, that they, by their numerical strength, could put down what they call sedition. But the question at issue does not respect the putting down of sedition. The real question is, whether, without some large measure of Reform, the business of the country can be carried on with the confidence and the support of the people? I shall not ask whether you can resist Reform, but I say that it has become a question whether or not the Constitution would now perish if Reform be deferred.

This House, in its unreformed state, has nothing to look to but the sympathy, confidence and support of the nation. If it now refuses Reform, that sympathy will be withheld—that support will be denied. I ask you, then,

whether, when His Majesty's Ministers are convinced that Reform is necessary, and when they have the approbation of their gracious Sovereign for bringing this proposition before the House; when they declare that Reform is indispensable; when multitudes of petitions pour upon your Table, and myriads of voices out of doors put forth a just request for Reform—will this House say, 'We are the judges of our own honesty, we despise the advice of the Crown, and disregard at once the warning of Ministers and the demands of the people, whom we profess to represent'? Will this House say, 'We will keep our power, keep it how we may; we regard not the petitions of the people, and are ready to abide by all the consequences of our refusal'?

I appeal, Sir, in my turn, to the aristocracy. The gentlemen of England have never been found wanting in any great crisis. When the country was engaged in war against the national enemy—when the honour and security of the country were assailed—they were ever foremost. When burthens were to be borne, they were ever as ready to bear their share as any other class of the community. I ask them now, when a great sacrifice is to be made, to show their generosity—to convince the people of their public spirit—and to identify themselves for the future with the people. Upon the gentlemen of England, then, I call. I ask them to come forward, and, by their conduct on this occasion, to give security to the Throne, stability to Parliament and the Constitution, and strength and peace to the country.

REFORM OF THE FRANCHISE

SIR ROBERT PEEL

House of Commons, 6 July 1831(4 *Parl. Deb.*, 3 s., 890 ff.)

[DEBATE on the Second Reading of the Reform Bill, which was passed in the House of Commons by a majority of 136 votes. This debate was subsequent to the general election of May 1831. Before the election, the Bill had passed its Second Reading in the House of Commons by one vote.]

I have been uniformly opposed to Reform upon principle, because I was unwilling to open a door which I saw no prospect of being able to close; it was not because I thought that the transfer of the franchise from East Retford to Manchester might be in itself injurious, but because I was of opinion that a Government which should unsettle the minds of the people upon this subject would be responsible for the consequences that must result. I certainly was one of those who opposed the giving representatives to Manchester, and to other large towns; because I thought the advantage of such a measure not sufficient to counterbalance the evil of altering the Constitution of Parliament, and agitating the public mind on the question of Reform. And if it be truly said, that the demand for Reform has been a steadily increasing demand, if it be the fact that nothing short of this Bill will give the least satisfaction, surely I was justified in doubting whether the grant of members to three or four large towns would stay the public appetite for Reform, and whether it would not prove the commencement, rather than the close, of the discussion.

I do not admit, however, that the settled opinion of this country is fixed, and permanently decided, in favour

of this Bill. I would advise those who assert it, not to rely too confidently on the duration of the present excitement; to bear in mind the causes which have combined to foment it—and to consider whether they are of lasting operation. Our sober judgment has been disturbed by the recent events in France, by sympathy in the triumph of liberal opinions, and by a natural indignation at the illegal exercise of authority. While those feelings are at their height—a Government is formed pledged to Reform, and they redeem that pledge by a more extensive measure of Reform than was expected by the most sanguine Reformer. They dissolve the Parliament in order to take the opinion of an already excited people, on a question of all others the most requiring sober and dispassionate inquiry, and they superadd to every other cause of agitation, and appeal to the personal wishes and opinions of the King.

With regard to the dissolution of the Parliament, it might be right or it might be wrong, but nothing could be more unwise than to countenance the popular belief, that the King was personally interested in the question of Reform. I do not for a moment call in question the undoubted prerogative of the Crown to dissolve the late Parliament, but I do call in question the prudence with which that prerogative was exercised, the time and mode of its exercise, and above all, the lavish use of His Majesty's name and authority, with the view of influencing election contests. I regret, most deeply, that through their organs of the Press, the Government condescended to the humiliation of propagating tales which could only be addressed and suited to the lowest and most vulgar class of minds. I regret most deeply that they should, for any purpose whatever, have resorted to the dangerous expedient of teaching the people to associate loyalty to their King with hostility to the constitution of Parliament.

I do not think it a happy circumstance that the feelings of the people have been thus excited; I doubt the existence of an unanimous feeling as connected with this measure

on their part; and I deeply regret that the sober and temperate judgment of the people has been disturbed by a variety of causes. But, Sir, if this feeling be such as we have heard it represented, and if it shall permanently endure, I am then ready to admit, that no Government can go on without enacting such measures as shall alleviate and remove that intense feeling. But all I ask is time for deliberation upon a question of such vital importance; I say, do not rely upon this temporary excitement—do not allow that to be your only guide—do not force this Reform Bill upon the country, upon the assumption that the unanimous voice of the people demands it. I doubt the existence of any such grounds; and if you do find hereafter that you have been mistaken—if you find that the people have only been acting under an excitement produced by temporary causes—if they are already sobering down from their enthusiasm for the days of July, let the House remember, that when the steady good sense and reason of the people of England shall return, they will be the first to reproach us with the baseness of having sacrificed the Constitution in the vain hope of conciliating the favour of a temporary burst of popular feeling; they will be the first to blame us for deferring this question to popular opinion, instead of acting upon our own judgment.

For my own part, not seeing the necessity for this Reform, doubting much whether the demand for Reform is so urgent, and doubting still more whether, if carried, this measure can be a permanent one, I give my conscientious opposition to this Bill. In doing this, I feel the more confident, because the Bill does not fulfil the conditions recommended from the Throne—because it is not founded on the acknowledged principles of the Constitution—because it does not give security to the prerogatives of the Crown—because it does not guarantee the legitimate rights, influences, and privileges of both Houses of Parliament—because it is not calculated to render secure and permanent the happiness and prosperity of the people—and above all, because it subverts

a system of Government which has combined security to personal liberty, and protection to property, with vigour in the executive power of the State, in a more perfect degree than ever existed in any age, or in any other country of the world.

REFORM OF THE FRANCHISE

DUKE OF WELLINGTON

*House of Lords, 4 October 1831**(7 Parl. Deb., 3 s., 1198 ff.)*

[DEBATE in the House of Lords on the Second Reading of the Reform Bill. The Lords rejected the Bill by a majority of 41 votes.]

Taking the whole view of this system of representation to be established in England, Scotland, and Ireland, I cannot but consider that the House of Commons returned by it will be a democratical assembly of the worst description; that Radical Reform, Vote by Ballot, and all the evil consequences to be expected from the deliberations of such an assembly, must follow from its establishment. I entreat your Lordships to pause before you agree to establish such a system in your country.

But we are told that the people wish for this measure; and when we express our sense of the danger which attends it on account of the democratical power which it tends to establish, an endeavour is made to calm our apprehensions by the assurance that the people are attached to the Government of King, Lords, and Commons.

If we are to rely upon that feeling of the people—if we are to adopt this measure because it is the pleasure of the people, and because they are attached to the Government of King, Lords, and Commons, why do we not at once adopt the measure which we know that the people prefer—I mean Radical Reform; that is to say, Universal Suffrage, Vote by Ballot, and Annual Parliaments? If we are to make a change, there can be no reason for not going the full length that the people wish, if we can be sure that the measure will not injure the Government, that to which they are attached, of King, Lords, and Commons.

But, before we go further, it is desirable that we should examine what is the Government of King, Lords, and Commons, as established in this Kingdom. In this Government the King is at the head of everything. All the power is in his hands. He is the head of the Church, the head of the law. Justice is administered in his name. He is the protector of the peace of the country, the head of its political negotiations, and of its armed force—not a shilling of public money can be expended without his order and signature. But, notwithstanding these immense powers, the King can do nothing that is contrary to law, or to the engagements of himself or his predecessors. The King calls Parliament to assist him with its counsels, *de arduis regni*, and those are responsible for his acts who carry them into execution. His Ministers are responsible not only for the legality, but for the prudence and fitness of his acts. To whom are they responsible? To this, and the other House of Parliament, to the latter principally, on account of the greater activity of its inquisitorial power—on account of its possessing exclusively the power of the purse, and for other reasons. Every act of the Government, or of the King, is liable to be brought under discussion in, and is, in fact, controlled by the House of Commons; and, for this reason alone, it is important that we should consider of what description of men the House of Commons is likely to be composed, when we are discussing a question of Parliamentary Reform, in order that we may be quite certain that they will exercise their high functions with wisdom and discretion. . . .

I beg your Lordships to consider what are the questions which in every week, and on every day, are brought under the discussion of the House of Commons—questions affecting the honour, the interests, the rights, the property of every individual in the country, which the King is bound by oath to protect, and in the protection of which all are equally interested. They are questions regarding the proceedings of Courts of Justice, regarding the use of the public force, and hundreds of others, which occur

daily, in which every individual is interested. I put legislation out of the question: but can the King from that Throne give to his subjects the necessary protection for their rights and property? No, my Lords. It is only by the influence of property over the elections of members of the House of Commons, and by the influence of the Crown and of this House, and of the property of the country upon its proceedings that the great powers of such a body as the House of Commons can be exercised with discretion and safety. The King could not perform the duties of his high station, nor the House of Lords, if the House of Commons were formed on the principle and plan proposed by this Bill. . . .

A noble Earl (the Earl of Winchilsea) who has spoken on this side of the House, has made an observation to your Lordships, which well deserves your attention. The noble Earl has told you that, if you increase but a little the democratic power in the State, the step can never be withdrawn. Your Lordships must continue in the same course till you have passed through the miseries of a revolution, and thence to a military despotism, and the evils which attend that system of Government. It is not denied that this Bill must increase beyond measure the democratic power of the State—that it must constitute in the House of Commons a fierce democracy: what must be the consequences your Lordships will judge.

I will not detain your Lordships by adverting to the merits of the system of Government which has existed up to the present moment, upon which my opinion is by no means altered. No man denies that we have enjoyed great advantages; that we have enjoyed a larger share of happiness, comfort, and prosperity, for a long course of years, than were ever enjoyed by any nation; that we have more riches, the largest fortunes, personal as well as *real*, more manufactures and commerce than all the nations of Europe taken together; the richest, most extensive, most peopled, and most prosperous foreign colonies and possessions that any nation ever possessed. There is not an important position in the world, whether

for the purpose of navigation, commerce, or military defence, that does not belong to us.

If this democratic Assembly should once be established in England, does any man believe that we should continue to enjoy these vast advantages? But a democracy has never been established in any part of the world that has not immediately declared war against property—against the payment of the public debt—and against all the principles of conservation, which are secured by and are, in fact, the principal objects of the British Constitution, as it now exists. Property, and its possessors, will become the common enemy. I do not urge this argument as one in which your Lordships are peculiarly interested: it is not you alone, nor even other proprietors, who are interested in the protection of property; the whole people, middling classes as well as the lower orders, are interested in this subject. Look at the anxiety prevailing in every part of London, in respect to the great revolution to be made by this Bill. . . .

If I am right in thinking this fierce democracy will be established in the House of Commons, does any man believe that that harmony can continue between the King and his Government and the House of Commons, so necessary to insure to both general respect, and to the King's Government the strength which is necessary to enable His Majesty to protect and keep in order his foreign dominions, and to insure the obedience of their inhabitants? We shall lose these colonies and foreign possessions, and with them our authority and influence abroad.

THE BALLOT
GEORGE GROTE

House of Commons, 15 February 1838

(40 *Parl. Deb.*, 3 s., 1132 ff.)

[GROTE made no less than six speeches in the House of Commons during the 'thirties in his endeavour to secure the introduction of the ballot. He eventually gave up the struggle; and his object was only secured as he lay dying in 1871. Nearly all the leading statesmen opposed the project. Their arguments do not seem now to be impressive. The alleged advantages of the exercise of the franchise in public were often cited when a stronger motive was a desire that the propertied classes should maintain a moral influence over the mass of the electors.]

I scarcely venture to imagine, Sir, that I can bring much new argument to the discussion of this subject, in addition to that which has been advanced on former occasions. But experience, though a severe preceptress, is full of instruction and efficacy in her teaching; and fresh as we now are from the recollections of the late election, I hope we shall approach the examination of the ballot with minds more candid and unprejudiced than heretofore. The necessity of the case imperatively calls upon us to do so. I propose the ballot not merely as a fanciful scheme for making that which is now good still better—not merely as a measure of insurance against evils remote and contingent—but as a remedy against mischiefs, present, acknowledged, and full of baneful working—an efficient remedy against intimidation and bribery.

No one can deny that bribery and intimidation are serious evils: as little can any one deny that bribery and intimidation infect at this moment almost every vein and artery of our elective system, and that the securities which we possess against them are impotent and contemptible.

That a remedy against such mischiefs is urgently needed stands confessed and obvious to every one; and what second remedy, what other measure of any promise or efficiency, has ever been proposed, even by those whose aversion to the ballot is most unconquerable? Admitting, even, that my reasonings carry with them nothing stronger than a considerable probability—admitting that my proposition presents only a fair chance of success, yet what is the alternative? Why, the alternative is that bribery and intimidation must remain as they are now, epidemic evils permanently entailed upon us beyond all reach of cure. And I submit that this is a conclusion far too discouraging to be admitted by any reasonable man, or by any sincere patriot while the expedient of the ballot remains untried.

It has become common of late, Sir, since the example set by the noble Lord, the member for Stroud [Lord John Russell], in his memorable declaration on the first night of this session, to couple the ballot with other reforms more frequently than ever it was coupled before. But the motion which I am now about to submit to you is for the adoption of vote by ballot singly and simply, unaccompanied by any additional measure whatever. I have made this proposition separately before, and I now make it separately again; not because I think that the ballot, when applied to an imperfect representative system, will render that system perfect and faultless, not because I am insensible to the importance of householder suffrage, and triennial Parliaments, for to both these questions I am a warm friend, but because I know that the ballot will of itself rectify the grossest and most acknowledged abuses which elections now exhibit, and because I am prepared to advocate it on reasons belonging to itself separately and especially. To fix the extent of the franchise, the duration of Parliaments, and the distribution of the constituency in the way most conducive to good government are doubtless most important problems; but it is a problem distinct from all these, and not at all less essential to appoint such a mode of voting

as will prevent abuse and wrong in the actual exercise of the franchise. Let us make what other arrangements we please, still we cannot evade the consideration of this last question on its own peculiar grounds and merits; and whether we determine to enlarge the constituency or to keep it unaltered, whether we adopt triennial or retain septennial Parliaments, in either case it is our imperative duty to take the surest precautions for enabling the existing electors to give their votes both with probity in regard to the public, and with safety in regard to themselves. This is the question which I now present to the House when I call upon them to decide affirmatively or negatively upon the ballot; and I shall think it a material improvement if I can abate the nuisances of bribery and intimidation, and rescue voters from temptation and constraint, even though I may still leave the constituency less numerous, and worse distributed than I could desire.

Besides, Sir, I am prepared to show that the ballot is a proposition which may not only be consistently supported, but which ought to be equally supported, both by those who advocate and by those who resist a farther extension of the suffrage. Not merely because, under open voting, the existing electors are exposed to wrongful interference, to severe personal hardship and vexation, and to factitious allurements, from which it is but common justice and common prudence to relieve them, even although no farther measures of improvement were to be combined with that relief, but also for another reason of no less importance. We have at this moment, in round numbers nearly 700,000 qualified electors in the United Kingdom. There are some who think that this number is sufficiently large; there are others and I am amongst them who think that it ought to be extended. But if any proposition were made to diminish the present constituency,—if it were proposed to cut down the number of electors from 700,000 to 400,000,—most assuredly such an attempt would be resisted, both by those who desired to adhere to the present franchise, and by those who sought to enlarge it.

Now, Sir, look for one moment at the state of the facts, and you will see that election, by open voting, is tantamount to a very great curtailment of the existing legal franchise; you will see that it is nothing less than a sentence of practical disfranchisement to hundreds and thousands of electors. It is well known that there is in every constituency a considerable fraction of electors who decline to exercise their political franchise at all, because they cannot exercise it without giving serious offence to those whose good-will they dread to forfeit. And, with regard to many of those who do vote, give me leave to ask, what is the difference between taking away a man's vote altogether, and taking away from him the liberty of voting as he himself inwardly prefers? What is the difference between depriving a man of his franchise and depriving him of that free agency which is essential to the very idea and meaning of the franchise? Is not the number of genuine and *bona fide* electors just as much lessened by the one act as the other? Sir, it is but too plain, that by condemning electors to vote openly, you practically extinguish free will and free choice in a very large proportion of them—perhaps not less than one third of the whole; and you thus reduce the legal franchise, for all practical and public purposes, to only two thirds of its legal extent. It is upon this special ground then, Sir, that I appeal both to those who desire extension of the suffrage and to those who oppose it, and call upon both of them to support my present proposition. It must be alike the study of both, that the present franchise shall not be abridged, nor the present voters practically disfranchised. And though they may differ on the point of further extension, at least let them join with me in procuring for voters that measure of protection which is essential to preserve the present extent of the franchise, without restriction or curtailment—at least let them guard the votes of the poorer electors from being sucked up into the patrimony of the richer.

We are accustomed to boast, Sir, that we possess a representative Government,—that the people of this

country dwell under laws made by their own representatives in Parliament. Now, as to the main purposes of a representative Government, I believe there is little difference of opinion. The object is to get a House of Commons possessing the confidence of the people, chosen by the free and deliberate preference of their various constituencies, and recommended to the esteem of the nation at large by the public certainty that they have been thus preferred. This is the grand object for the attainment of which the people are called upon to go through the harassing and costly business of a general election. If your election does not bring out the genuine, unbought, unconstrained sentiments of the voters,—if it is not publicly known to bring out this result and no other,—you might as well have no election at all; the institution is a deceit and a failure.

Such is the object and intention of a representative system. And now I ask the House whether this object is really attained. Does the practical working of English elections produce that result for which alone representation exists? Does it afford to the Nation at large legitimate ground for confidence in the members assembled within these walls? I affirm that it does not, and that it cannot. Sufficient evidence exists of the practices by which election returns are now effected to deprive the existing system of all title to national esteem and attachment. It is not, in truth and in fact, and in the faithful use of the words, a representative system. The characteristic properties of a representative system are subdued and paralysed by a vicious mode of working. It is a system which still preserves the baneful principle of nomination, varied, indeed, in the manner of its application, but unaltered in substance,—the principle whereby the choice is dictated by one person and the vote given by another,—an evil which the Reform Act professed to have expelled for ever. I do not mean, of course, to deny that many votes are given, and those, too, by men of all shades of political party, which are perfectly unexceptionable in every point of view, and which express nothing but the

fair and genuine sentiments of the electors; but I do mean to assert that, with respect to a large proportion of electors, and a large proportion of votes, this is the very reverse of the truth. . . .

You hear it sometimes argued, Sir, that open voting makes the elector responsible to the public, and that secret voting removes that responsibility. But this is a mere abuse of terms; I am prepared to show you that there neither is nor can be any responsibility in the case. Responsibility, in its only legitimate meaning, can attach to nothing but to the performance of a man's duty; a man is responsible when he is liable to loss in the event of discharging his duty badly, and when he is protected from loss in the event of discharging it well. Now, what is the duty of an elector? Simply to deliver his own opinion sincerely and conscientiously,—let him be in the minority or in the majority,—let him agree or disagree with whom he may; my neighbour and I may both discharge our electoral duty with equal fidelity, though he votes for a Tory and I vote for a Radical; it would be wrong in him to vote as I do—it would be wrong in me to vote as he does. Now, Sir, this being the sole duty of an elector, will any man tell me that publicity of suffrage makes him responsible for discharging it well? Will any man tell me that every elector who votes sincerely and conscientiously is protected from loss, and that no elector becomes liable to loss except when he votes otherwise? The reverse is notoriously the fact; and it is because the reverse is the fact that the ballot is demanded. Let it not be pretended, then, that publicity makes an elector responsible for the discharge of his duty: all that publicity does is to make him liable to ill usage from those whom he opposes, and to good usage from those whom he supports. Who will be found to call this by the imposing title of responsibility? Why, it is only seduction and intimidation under a new name. And not only does publicity of suffrage contribute nothing to keep a voter in the right way against his will (which would be the only object of any real responsibility), but it tends, most powerfully,

to drive him into the wrong way against his will. In a contested election, the public are divided into partisans on both sides; no one ever takes the least thought about the sincerity of votes; every one thinks that he is serving the public by multiplying votes on his own side, no matter whether these votes represent genuine convictions or not. It is thus that the real public obligation—the genuine electoral conscience—is left destitute of all support or guarantee from without, while it is exposed to assault and importunity of every kind from those whose good will or ill will bears closely upon the comforts of the elector. Such are the effects of an open suffrage: so far from creating an efficient public responsibility,—so far from providing new securities for conscientious voting,—it only lets in fresh dangers, and sows factitious seeds of evil. Let the elector vote in secret, and the path of duty becomes at once smooth and easy: he will have no perils to defy, and no temptations to resist.

REFORM OF THE FRANCHISE

BENJAMIN DISRAELI (afterwards Earl of Beaconsfield)

House of Commons, 28 February 1859

(152 Parl. Deb., 3 s., 966 ff.)

[DISRAELI moved for leave to bring in a Reform Bill. His view was that interests, especially local ones, should be represented rather than numbers.]

I believe, there is a general wish among all men of light and leading in this country that the solution of this long-controverted question should be arrived at; and that if public men occupying the position which we now occupy feel it their duty to come forward to offer that solution—one which I trust in our case will not be based upon any mean concession or any temporary compromise, but on principles consistent with the spirit of our Constitution, which will bear the scrutiny of debate, and which I trust may obtain the sympathy of public opinion—I feel persuaded that in the present conjuncture of our political world such an attempt will meet from this House a candid though a discriminating support. And equally, it may be observed, that the public mind of this country has for the last quarter of a century, and especially during its latter portion, been so habituated to the consideration of all questions connected with popular representation, the period itself has been so prolific of political phenomena for the contemplation and study, and, I may add, the instruction of the people of this country, that we are in a much more favourable position than the statesmen who in 1832 undertook the great office which then devolved upon them, because we address not only a Parliament, but a country which has upon this subject the advantage of previous knowledge; and all will agree that this greatly facilitates both discussion and decision.

Although some of those who took a leading part in

the transactions of 1832, happily for us, still sit in both Houses of Parliament, yet so long is the space of time that has elapsed since those occurrences I think it is not impossible to speak of them with something of the candour of history. I do not doubt that our future records will acknowledge that, during some of the most important political events of modern history, those events were treated with the energy and the resource becoming British statesmen. If we judge of the Act of 1832 by its consequences, in the measures of this House and in the character of its members, it must be admitted that that policy was equal to the emergency it controlled and directed. I cannot, indeed, agree with those who attribute to the legislation of 1832 every measure of public benefit that has been passed by this House during the last twenty-five years. I know well that before the reform of this House took place the administration of this country was distinguished by its ability and precision. I believe, indeed, that, especially in the latter part of the administration of Lord Liverpool, this House was rather in advance of the opinion of the country at large. But I think that the reform of the House of Commons in 1832 greatly added to the energy and public spirit in which we had then become somewhat deficient. But, Sir, it must be remembered that the labours of the statesmen who took part in the transactions of 1832 were eminently experimental. In many respects they had to treat their subject empirically, and it is not to be wondered at if in the course of time it was found that some errors were committed in that settlement; and if, as time rolled on, some, if not many deficiencies, were discovered. I beg the House to consider well those effects of time, and what has been the character of the twenty-five years that have elapsed since the Reform of 1832. They form no ordinary period.

In a progressive country, and a progressive age, progress has been not only rapid, but, perhaps, precipitate. There is no instance in the history of Europe of such an increase of population as has taken place in this country during this period. There is no example in the history

of Europe or of America, of a creation and accumulation of capital so vast as has occurred in this country in those twenty-five years. And I believe the general diffusion of intelligence has kept pace with that increase of population and wealth. In that period you have brought science to bear on social life in a manner no philosopher in his dreams could ever have anticipated. In that space of time you have, in a manner, annihilated both time and space. The influence of the discovery of printing is really only beginning to work on the multitude. It is, therefore, not surprising that in a measure passed twenty-five years ago, in a spirit necessarily experimental, however distinguished were its authors, and however remarkable their ability, some omissions have been found that ought to be supplied, and some defects that ought to be remedied. . . .

If the measure we recommend be adopted, you will have a great homogeneous constituency, with much variety of character—for variety in the franchise is perfectly consistent with identity of the suffrage;—you will have a great homogeneous body, between the different sections of which there will no longer exist feelings of dissatisfaction and distrust. The elector will elect a man of the community in which he lives, and he will exercise the right under the high sense of duty that influences Englishmen in performing it. I have always thought the ideal of the constituent body in England should be this—It should be numerous enough to be independent, and select enough to be responsible; and that is the constituency Her Majesty's Ministers believe will be formed by the measure I propose to the House to-night.

REFORM OF THE FRANCHISE

RICHARD COBDEN

*Rochdale, 18 August 1859**Speeches of Richard Cobden on Questions of Public Policy*

(ed. J. Bright and J. E. T. Rogers), vol. ii, pp. 545 ff.)

[THIS speech is a useful example of the way in which Cobden and Bright tried, when speaking in the provinces, to emphasize the essential identity of interests of the middle and labouring classes and the need of the union of those classes in regard to Reform. Cobden dealt more realistically with the dangers of delay than most statesmen advocating Reform.]

It is a good sign to find so many of the working class, the non-electors of this borough, taking an interest in this question; for I should despair of my country, I should think there was little chance, at least, of our preserving those institutions which we prize so much, unless the great bulk of the people, who are now unfortunately deprived of the electoral franchise, were pressing forward, and anxious to elevate themselves to the dignity of free citizens. . . .

My opinions on the franchise have for the last twenty years been pretty generally given. I do not think I have gone as far as everybody in this assembly; I have gone a great deal farther than many of those with whom I have found myself acting in the House of Commons. I always voted for household suffrage. I know you have many partisans of that amount of the franchise, and you have also friends of manhood suffrage in this borough. My idea is this, that whether you get manhood suffrage, or whether you get household suffrage, or whether you get something different from either,—which we are very likely to get before we get the other two,—my idea is this, that some step in advance in the franchise will render

future steps in the direction of the franchise and other measures of reform far easier than the first steps will be. We have got to a deadlock now, when the question of the franchise must be dealt with, for parties in the House of Commons have come to that pass, that, whilst all of them have agreed to some measure of reform, there seems to be hardly power in either side of the House to carry any efficient measure; and therefore I say, in the interest of parliamentary government, as well as for the benefit of the people at large, it is most important that this question of the franchise should be dealt with speedily, and I hope it will be dealt with largely and generously.

I have told you what my advocacy has been; I have also named what others in this borough to a large extent, I believe, advocate; but I will not disguise from you, who are non-electors, that, in dealing with this question, we have to argue it before a tribunal which already possesses the franchise, and it would not be human nature if we did not find that the class that already possess the electoral power are a little bit jealous, and a little bit reluctant to diffuse their power over a greater number of voters, and thereby lessen the intrinsic value of the franchise itself. It is very much like somebody having a glass of pretty strong wine-and-water, letting somebody come and water it for him and make it weaker. There is no doubt an idea amongst the electors that the extension of the franchise to a large body of the working classes would weaken their own power, and probably endanger their influence; and, therefore, it is only human nature to expect a reluctance on the part of those who have the franchise to grant it to those who have not got it. Now, you know I was always a practical man; even in advocating the repeal of the Corn-laws, I never found that I could make any progress until I began to take up the landlord's and the farmer's view of the question, and try to reconcile both to the change, and show both that they were not going to get any harm from it.

Well, now, in advocating the extension of the franchise on your behalf, I should always present myself before the

present body of electors with such arguments as I could find to show them that they would not derive any injury from a large extension of electoral rights to those outside of the electoral pale. My first question to the electors would be this, 'What interest have you of the middle class that the people of the working class have not also got?' You cannot separate the interest of the one from the other. The question then will be, 'Are you sure that if we let in a large number of voters from another class, the working class, that they will see their own interest in the same way as we see ours?' Well, I think people are generally very quick-sighted as to their interests; and fortunately there is in the constitution of society, and of all earthly things, that if a man does not pursue his interest, if he does what is wrong, he is very soon reminded of it by the damage he does to himself as well as to others. I, therefore, do not think there is much danger that a large proportion of the working class, by following merely their own instincts, will not take a wise view of their own interest. But I would ask the middle class, if I may call them so, who have now got the franchise, whether they may not incur some difficulties and dangers themselves if they keep out of the electoral pale the vast majority of the community who have now no interest in [i.e. right to] the suffrage?

The working class, and those who are not entitled now to vote, I believe amount to five millions of persons. Well, I say to those who have the vote, 'Take into partnership with you a portion of those who are now excluded from the right of voting, and do it, if you have no other motive, from the selfish motive of being secure in the possession of the power you have.' For your electoral system is standing now upon so narrow a foundation that it is hardly safe to reckon upon its standing at all in case of some certain contingencies arising, which we can imagine may some day arise. Why, what have we seen abroad? I remember quite well when Louis Philippe, the last King of France, was strongly urged by the reformers in France to double the electoral body in that country. They then

had only about 250,000 voters. He was urged to double the number of votes. He refused; he continued to govern the country through this small minority of voters; and one evening, when we were sitting in the House of Commons, the telegraph flashed the news from Paris that the Government of Louis Philippe had been overthrown, and a Republic proclaimed in its place. And I remember quite well when the buzz of the conversation ran round the House as this piece of news was passed from member to member, I remember saying to the late Mr. Joseph Hume, who sat beside me, 'Go across to Sir Robert Peel, and tell him the news.' Sir Robert Peel was sitting then just on the front seat on the other side of the House, having been repudiated by his large party, which he had lost by having previously repealed the Corn-laws. I remember Mr. Hume going and sitting by the side of Sir R. Peel, and whispering the news to him, and his immediate answer was this: 'This comes of trying to govern the country through a narrow representation in Parliament, without regarding the wishes of those outside. It is what this party behind me wanted me to do in the matter of the Corn-laws, and I would not do it.'

We stand here upon a different basis; instead of 250,000 voters, we have about a million; but recollect this, that whilst France had been only a constitutional country, at that time, about twenty-five years, we have been governed under constitutional maxims for centuries. Recollect that it is our boast that the people here do rule and that they have ruled for centuries; and I do say that, taking into account our great pretensions in regard to the freedom of the subject in this country, and comparing our present state, when we have but a million of voters, I declare that our state is less defensible than the case of Louis Philippe was in the time of which I speak, because compared with our pretensions, our system of representation is no doubt an enormous sham; and there is no security in shams at any time, because they are very liable to be upset by any sudden reality such as that which occurred in the streets of Paris at the time of which I speak.

I can imagine such a thing as our hearing some day within the next five years of some hurricane of revolution passing over the continent of Europe, and we know what the effect of that was upon this country in 1830; and I can imagine such a state of things as that we should be in such a position at some time, owing, for instance, to some circumstance that has happened in India or elsewhere—for we are not without our outlying dangers—I can imagine ourselves in such a state of things at that moment that there may be very great excitement in this country, and probably very great discontent and suffering and consequent disaffection; and I can imagine this great change, coming like a thunder-clap from the Continent, might rouse up elements in this country which might produce changes far greater than anything which is now contemplated in this country, and which would make those men who then had to deal with this question look back with regret to those tranquil times in which we now live, and lament that they did not, like wise statesmen, deal with this question as they ought to deal with it, in a time of prosperity and political calm. I am therefore using the most homely and the most common-sense counsels when I advise the class in this country which has the possession of political power, to deal with this question now, when the people are in a good temper, and when we are in a prosperous state.

Besides, we have seen another change on the Continent. We have seen the great mass of the people sometimes throw themselves into the scale in favour of some one great man, or some great party; and although it is not a thing that is very likely to happen in this country, yet I can imagine in any country that, if you exclude five-sixths of the male adult population from electoral rights,—I can imagine a state of things when, if they have been proscribed for generation after generation, they might be disposed to avenge themselves upon a privileged class by turning the scale in favour of some other party in the community, who might be in favour of oppressing those whom they may consider to have been their oppressors.

I think these are not whimsical fancies, but they are chances which ought to be considered by every thoughtful and prudent man, and they should be a motive, even though drawn from the instincts of selfishness, why the middle class of this country should seek to deal with this question of the franchise at the present moment.

But still, we have the bugbear, that the working class of this country are not to be trusted with the franchise; the saying is that the people would injure themselves if you gave them the franchise; that they cannot take care of themselves. Now, in answer to that, I will put another question which has often occurred to me in my travels in distant countries: 'If the people are not fit to take care of themselves, who are to be trusted to take care of them?' That is the question which I have asked myself in many countries. I have asked it of myself where they are governed as they are in Russia, I have asked it where they are governed as they are in Austria, where they are ruled as they now are in France—I have asked myself this question: Where will you find a resting-place—how will you ever establish a system by which the people can be governed unless you come to this, that they must be left to govern themselves? Why, we do not profess to go to any of those countries for a rule and system of government. Well, there is another remedy for this difficulty of ignorance. [A Voice: 'Go to America.'] A friend says, 'Go to America.' Well, I have been to America. But we must deal with it in a practical way; we cannot deal with it as an American question; but I have no objection to illustrate what I am going to say by a reference to America. In America they have generally universal suffrage, but not everywhere; until lately, the suffrage was not so widely extended as it is now. I saw it lately stated, in a New York paper, that, thirty years ago, the franchise in the State of New York was not more popular than it is in England now. In the various States of the American Union they have a great variety of franchises. In some parts, it is universal suffrage; in others, it is tax-paying suffrage; in some it is a

kind of household suffrage; and in others, it is a property qualification. But the tendency, everywhere and always, is constantly to widen the possession of the franchise, constantly to increase the number of voters; and the principle is now everywhere admitted, that they must come to manhood suffrage for the whole of the white population. And this is the point that I am coming to as an illustration of my argument with reference to the alleged ignorance of the people. I have found in America that everywhere the question of education lies at the foundation of every political question. I mean this: that in America the influential classes, as you may call them, the richer people, everywhere advocate education for the people, as a means of enabling the people to govern themselves. Their maxim is this: the people govern for themselves; and, unless we educate the people, our free institutions cannot possibly work. Their maxim is everywhere, 'educate or we perish'; and the consequence is that the influential classes in America devote themselves to the education of the whole people, in a manner and to an extent of which no country in Europe can have any idea. Wherever I have been on my travels there I have found—and I have visited in some places where, when I was in America twenty-four years ago, the Red Indians were still encamped, and where, twenty-four years afterwards, I have found flourishing towns—I have found that everywhere in these new communities the schoolhouses were the largest and most conspicuous buildings, and that, even whilst the streets were unpaved, and whilst most of the citizens were dwelling in wooden houses, there were large brick or stone buildings run up, containing eight, ten or twelve long rooms, and every room, from the floor to the roof, was filled with children, receiving without one farthing fee or charge, as good an education as you could give to the sons of the middle classes in this country.

I have no hesitation in saying that the system of education in America has gone hand in hand with the extension of the electoral franchise to the people, and that the

one great strong pervading motive of the people of America to educate their sons is that they may be enabled to exercise the power which they possess for the benefit of themselves and the whole country. One of the advantages which I expect to see derived from the wide extension of the franchise in this country is that there will be increased attention paid by those who are in influential places to the promotion of national education. And if it has the effect of drawing the different classes together, and inciting them to a common effort to raise the intellectual and moral condition of the great mass of the people, I know of no better effect which could be produced by any measure than that which will come from an extension of the franchise.

There are questions connected with our taxation which some people think could hardly be safely left to be dealt with by a largely and widely extended constituency. Now, I am of opinion that the country will gain in the question of taxation; that it will have a chance of reforms, which, under existing circumstances, there seems to be little, or only a very remote prospect of effecting. Everybody is, or ought to be, interested in a sound and just system of taxation, because nothing cripples people more than unjust and excessive taxation. But, having already expressed my belief that the extension of the franchise will tend to the extension of education in the country, I say, in reference to the taxation of which some people are afraid, that I think that the tendency of legislation in our fiscal affairs, as the result of a widely extended franchise, would, in my opinion, go very far to promote the prosperity of our commercial system.

What is it that the people are afraid of? They say, 'If you give a vote to the people they will tax property, and they will relieve themselves of taxes.' Well, now, although I cannot follow the subject into all its details, I am not at all alarmed at this threat. I believe that even if all that is predicted should be fulfilled—I am not quite sure that it would be, but assuming that the effect of an extension of the franchise was that the votes of the people removed,

to a large extent, taxes which now press upon articles of consumption, such as tea and sugar, paper, and other articles taxed at our custom-houses and excise-offices—I say that if it had that effect I do not believe that would prove injurious to the country. I believe that if the instinct of the people—the working people who would be thrown in as an addition to our electoral list—if their instinct led them to substitute for a large portion of our indirect taxes, taxes upon property, or taxes upon income, I believe that it would have a beneficial effect upon the commerce of this country; and that, though urged by their natural instincts, their selfishness, you may say, they would, in fact, be carrying out the most enlightened principles of political economy.

I do not know anything that could come from an extension of the franchise that would be more likely to benefit the upper classes as well as the lower, if I may use the term, than a change in our fiscal system, which very largely removed those taxes and duties which are now paid in the consumption of the working classes, and transferring that revenue to income and property. I, therefore, see in that fear of ignorance the greatest chance of an improvement in the education of the people. In the tendency of an extension of the suffrage, in regard to taxation, I cannot see that the working classes can possibly do that which could prove injurious to other classes of the community.

But I am sometimes told that the working classes, if they had the power, would be very likely to deal with their power after the manner of a trades' union, and attempt to force measures through Parliament that would benefit particular classes. Well, I am not afraid of that. We have had classes before who have had possession of the power of legislation, and who have used it for their own advantage. We had the Corn-laws passed by the landowners, the Navigation-laws passed for the benefit of the shipowners, we had the timber duties passed for the benefit of the timber merchants, and we had the sugar monopolies established for the benefit of the West Indies.

We have had classes in this country who have usurped political power, and have applied it for their own purposes; but the progress of enlightenment and the continued discussion of these questions have shown that this process of selfish legislation is found only suicidal to those who follow it, and that the best interests of all are consulted by those measures which deal fairly with the interests of all. And I do not think that if the matter came fairly to be discussed between those of the working classes who are possessed of the franchise and those who are above the working classes in the social scale,—I do not think they would be likely to come to any conclusion, respecting these questions, which would prove inimical to the rest of the community. For bear in mind that I always fall back on this: when we have taken into partnership a larger section of the working classes as electors, we shall all be interested in seeing that they get all the information we can possibly give them on these subjects. The law of self-preservation will be immediately at work, and we shall, through the newspapers, through our addresses, and through our schools, be constantly trying to bring up the intelligence of the working classes—if that be necessary,—so as to enable them to fulfil their duties as electors, without any of those dangers of which some people are—but I am not—afraid.

REFORM OF THE FRANCHISE

WILLIAM EWART GLADSTONE

*House of Commons, 11 May 1864**(175 Parl. Deb., 3 s., 317 ff.)*

[DEBATE on Mr. Baines's motion for the Second Reading of the Borough Franchise Bill. Gladstone's progressive attitude, which was misinterpreted in some quarters as approving of adult suffrage, caused considerable consternation and brought him into trouble with Palmerston.]

We are told that the working classes do not agitate for an extension of the franchise; but is it desirable that we should wait until they do agitate? In my opinion, agitation by the working classes, upon any political subject whatever, is a thing not to be waited for, not to be made a condition previous to any parliamentary movement; but, on the contrary, it is a thing to be deprecated, and, if possible, anticipated and prevented by wise and provident measures. An agitation by the working classes is not like an agitation by the classes above them, the classes possessed of leisure. The agitation of the classes having leisure is easily conducted. It is not with them that every hour of time has a money value; their wives and children are not dependent on the strictly reckoned results of those hours of labour. When a working man finds himself in such a condition that he must abandon that daily labour on which he is strictly dependent for his daily bread, when he gives up the profitable application of his time, it is then that, in railway language, 'the danger signal is turned on'; for he does it only because he feels a strong necessity for action, and a distrust in the rulers who, as he thinks, have driven him to that necessity. The present state of things, I rejoice to say, does not indicate that distrust; but if we admit this as matter of fact, we must not along with the admission allege the absence of agita-

tion on the part of the working classes as a sufficient reason why the Parliament of England, and the public mind of England, should be indisposed to entertain the discussion of this question. . . .

The objection made by the hon. Gentleman opposite and by many others is, that the working classes, if admitted even in limited numbers, or at all events so as to form any considerable proportion of a constituency, will go together as a class, and wholly separate themselves from other classes. I do not wish to use harsh language, and therefore I will not say that that is a libel; but I believe it to be a statement altogether unjustified by reference to facts. It is not a fact, as I believe, that the working men, who are now invested with the franchise, act together as a class; and there is not the slightest reason to suppose that they would so act together if there were a moderate and fair extension of the suffrage. If, indeed, we were to adopt a sudden and sweeping measure, a measure which might deserve the epithet of revolutionary; if we were to do anything which would give a monopoly of power to the working classes; if, for example, instead of adopting a measure which would raise the proportion of working men in the town constituencies to one-third, you gave the franchise to two-thirds, there would be some colour for the anticipation, and some justification for the language so lightly used; there might then be some temptation to set up class interests on the part of those who might thus have the means of obtaining, or, at least, a temptation to grasp at a monopoly of power, and it would, under these circumstances, be for us to show, if we could, that no danger would arise. But I appeal to the evidence of all, who know anything of the facts, to say whether we have not seen the working classes, in places where they possessed the franchise, instead of being disposed to go together as a class, rather inclined, as a general rule, and under all ordinary circumstances, to follow their superiors, to confide in them, to trust them, and to hold them in high esteem. Their landlords in the country, their employers in the town, their neighbours

and those whose personal characters they respect—these are the men whom the working classes commonly elect to follow; and for my part, I believe, if there is anything which will induce them to alter their conduct, and to make it their rule to band together as a class, it will be resentment at exclusion, and a sense of injustice. Whatever tends to denote them as persons open to the influence of bribery—as persons whose admission within the pale of the Constitution constitutes ‘a domestic revolution’; whatever tends to mark them as unworthy of confidence and respect, is calculated to drive them back to the use of their natural means of self-defence, and might, possibly, in times and circumstances which we can conceive, become the motive cause of an union among the working classes, which would be adverse to other classes of the community. . . .

Again, Sir, let us look for a few moments at the altered, the happily altered, relations of the working classes to the Government, the laws, the institutions, and, above all, to the Throne of this country. Let us go back—it is no long period in the history of a nation—to an epoch not very many years before the passing of the Reform Bill, and consider what was the state of things at a time when many of us were unborn, and when most of us were children—I mean, to the years which immediately succeeded the peace of 1815. We all know the history of those times; most of us recollect the atmosphere and the ideas, under the influence of which we were brought up. They were not ideas which belonged to the old current of English history; nor were they in conformity with the liberal sentiments which pervaded, at its best periods, the politics of the country, and which harmonized with the spirit of the old British Constitution. They were, on the contrary, ideas referable to those lamentable excesses of the first French Revolution, which produced here a terrible reaction, and went far to establish the doctrine that the masses of every community were in permanent antagonism with the laws under which they lived, and were disposed to regard those laws, and the persons by whom the

laws were made and administered, as their natural enemies. Unhappily, there are but too many indications to prove that this is no vague or imaginary description. This time to which I now refer, was a time when deficiencies in the harvests were followed by riots, and when rioters did not hold sacred even the person of Majesty itself. In 1817, when the Prince Regent came down to open Parliament, his carriage was assailed by the populace of London; and what was the remedy provided for this state of things? Why, the remedy was sought in the suspension of the Habeas Corpus Act; or in the limitation of the action of the Press, already restricted; or in the employment of spies and the deliberate defence of their employment, who, for the supposed security of the Government, were sent throughout the country to dog the course of private life, and to arrest persons, or to check them, in the formation of conspiracies real or supposed. And what, let me ask, is the state of things now? With truth, Sir, it may be said that the epoch I have named, removed from us, in mere chronological reckoning, by less than half a century, is in the political sphere separated from us by a distance almost immeasurable. For now it may be fearlessly asserted that the fixed traditional sentiment of the working man has begun to be confidence in the law, in Parliament, and even in the executive Government. . . .

Is it right, I ask, that, in the face of such dispositions, the present law of almost entire exclusion should continue to prevail? Again, I call upon the adversary to show cause. And I venture to say that every man who is not presumably incapacitated by some consideration of personal unfitness or of political danger is morally entitled to come within the pale of the Constitution. Of course, in giving utterance to such a proposition, I do not recede from the protest I have previously made against sudden, or violent, or excessive, or intoxicating change; but I apply it with confidence to this effect, that fitness for the franchise, when it is shown to exist—as I say it is shown to exist in the case of a select portion of the working

class—is not repelled on sufficient grounds from the portals of the Constitution by the allegation that things are well as they are. I contend, moreover, that persons who have prompted the expression of such sentiments as those to which I have referred, and whom I know to have been members of the working class, are to be presumed worthy and fit to discharge the duties of citizenship, and that to admission to the discharge of those duties they are well and justly entitled.

The present franchise, I may add, on the whole—subject, of course, to some exceptions—draws the line between the lower middle class and the upper order of the working class. As a general rule, the lower stratum of the middle class is admitted to the exercise of the franchise, while the upper stratum of the working class is excluded. That I believe to be a fair general description of the present formation of the constituencies in boroughs and towns. Is it a state of things, I would ask, recommended by clear principles of reason? Is the upper portion of the working classes inferior to the lowest portion of the middle? That is a question I should wish to be considered on both sides of the House. For my own part, it appears to me that the negative of the proposition may be held with the greatest confidence.

Whenever this question comes to be discussed, with the view to an immediate issue, the conduct of the general body of the operatives of Lancashire cannot be forgotten. What are the qualities which fit a man for the exercise of a privilege such as the franchise? Self-command, self-control, respect for order, patience under suffering, confidence in the law, regard for superiors; and when, I should like to ask, were all these great qualities exhibited in a manner more signal, I would even say more illustrious, than under the profound affliction of the winter of 1862? I admit the danger of dealing with enormous masses of men; but I am now speaking only of a limited portion of the working class, and I, for one, cannot admit that there is that special virtue in the nature of the middle class which ought to lead to our drawing

a marked distinction, a distinction almost purporting to be one of principle, between them and a select portion of the working classes, so far as relates to the exercise of the franchise.

But, Sir, this question has received a very remarkable illustration from the experience of the last few years. So far as Lancashire is concerned, we have the most extraordinary evidence—evidence amounting almost to mathematical demonstration—of the competency of the working man to discharge those duties of retail trade and the distribution of commodities, which are commonly intrusted to the lower part of the middle class. I allude to the evidence afforded by the marvellous success in that particular county (and I hope the example of that county may not be too eagerly followed elsewhere) of the co-operative system. For my own part, I am not ashamed to say that, if twenty or ten years ago anybody had prophesied to me the success of that system, as it has recently been exhibited in Rochdale and other towns in the north—if I had been told that labouring men would so associate together with mutual advantage, to the exclusion of the retail dealer who comes between the producer and the consumer of commodities, I should have regarded the prediction as absurd. There is, in my opinion, no greater social marvel at the present day than the manner in which these societies flourish in Lancashire, combined with a consideration of the apparent soundness of the financial basis on which they are built; for the bodies of men who have had recourse to the co-operative system have been, as it would appear, those who have stood out with the most manly resolution against the storms of adversity, who have been the last to throw themselves on the charity of their neighbours, and who have proved themselves to be best qualified for the discharge of the duties of independent citizens. And when we have before us considerable numbers of men answering to this description, it is, I think, well worth our while to consider what is the title which they advance to the generous notice of Parliament in regard to their

appeal to be admitted, in such measure as may upon consideration seem fit, to the exercise of the franchise. I, for myself, confess that I think the investigation will be far better conducted if we approach the question at an early date, in a calm frame of mind, and without having our doors besieged by crowds, or our table loaded with petitions; rather than if we postpone entering upon it until a great agitation has arisen.

And now, Sir, one word in conclusion. I believe that it has been given to us of this generation to witness, advancing as it were under our very eyes from day to day, the most blessed of all social processes; I mean the process which unites together not the interests only but the feelings of all the several classes of the community, and which throws back into the shadows of oblivion those discords by which they were kept apart from one another. I know of nothing which can contribute, in any degree comparable to that union, to the welfare of the commonwealth. It is well, Sir, that we should be suitably provided with armies, and fleets, and fortifications; it is well too that all these should rest upon and be sustained, as they ought to be, by a sound system of finance, and out of a revenue not wasted by a careless Parliament, or by a profligate Administration. But that which is better and more weighty still is that hearts should be bound together by a reasonable extension, at fitting times, and among selected portions of the people, of every benefit and every privilege that can justly be conferred upon them; and, for one, I am prepared to give my support to the motion now made by my hon. Friend (Mr. Baines), because I believe, and am persuaded, that it will powerfully tend to that binding and blending and knitting of hearts together, and thus to the infusion of new vigour into the old, but in the best sense still young, and flourishing, and undecaying British Constitution.

REFORM OF THE FRANCHISE

WILLIAM EWART GLADSTONE

House of Commons, 12 April 1866(182 *Parl. Deb.*, 3 s., 1131 ff.)

[DEBATE on Second Reading of the Liberals' Reform Bill, which did not succeed in passing.]

Sir, the House will remember that on a former occasion I ventured to refer to the state of the constituency at the present moment as compared with what it was in 1832; and I endeavoured to show by a computation, of which I stated the grounds, that the proportion of the working classes included in the present constituency, although to our great satisfaction we had found it to be larger than we had supposed, yet was smaller than it had been in the year 1832. That statement has not been impugned in this House, and I do not think it can be impugned successfully. I do not think that any gentleman who has examined the figures will venture to question my statement that at the present moment the quantitative proportion of the working men in the town constituencies is less than it was in 1832. But in order to obtain a full view of the importance of this fact neither must the House forget that since 1832 every kind of beneficial change has been in operation in favour of the working classes. There never was a period in which religious influences were more active than in the period I now name. It is hardly an exaggeration to say that within that time the civilizing and training powers of education have for all practical purposes been not so much improved as, I might almost say, brought into existence as far as the mass of the people is concerned. As regards the Press, an emancipation and an extension have taken place to which it would be difficult to find a parallel. I will not believe that the mass of Gentlemen opposite are really

insensible to the enormous benefit that has been effected by that emancipation of the Press, when for the humble sum of a penny, or for even less, newspapers are circulated from day to day by the million rather than by the thousand, in numbers almost defying the powers of statistics to follow, and carrying home to all classes of our fellow-countrymen accounts of public affairs, enabling them to feel a new interest in the transaction of those affairs, and containing articles which, I must say, are written in a spirit, with an ability, with a sound moral sense, and with a refinement, that have made the penny Press of England the worthy companion—I may indeed say the worthy rival—of those dearer and older papers which have long secured for British journalism a renown perhaps without parallel in the world.

By external and material, as well as by higher means, by measures relating to labour, to police, and to sanitary arrangements, Parliament has been labouring, has been striving to raise the level of the working community, and has been so striving with admitted success. And there is not a call which has been made upon the self-improving powers of the working community which has not been fully answered. Take, for instance, the Working Men's Free Libraries and Institutes throughout the country; take, as an example of the class, Liverpool; who are the frequenters of that institution? I believe that the majority of the careful, honest, painstaking students who crowd that library are men belonging to the working classes, a large number of whom cannot attend without making some considerable sacrifice. Then again, Sir, we called upon them to be provident, we instituted for them Post Office savings banks, which may now be said to have been in full operation for four years; and what has been the result? During these four years we have received these names at the rate of thousands by the week, and there are now 650,000 depositors in those savings banks. This, then, is the way in which Parliament has been acting towards the working classes.

But what is the meaning of all this? Parliament has

been striving to make the working classes progressively fitter and fitter for the franchise; and can anything be more unwise, not to say more senseless, than to persevere from year to year in this plan, and then blindly to refuse to recognize its legitimate upshot—namely the increased fitness of the working classes for the exercise of political power? The proper exercise of that power depends upon the fitness of those who are to receive it. That fitness you increase from day to day, and yet you decline, when the growing fitness is admitted, to give the power. . . . I fear the intention is to resist the consummation of the process, of which the earlier stages have been favoured and approved. This course appears about as rational as the process of a man who incessantly pours water into a jug or bason, and wonders and complains that at last it overflows.

REFORM OF THE FRANCHISE (WOMEN'S SUFFRAGE)

JOHN STUART MILL

House of Commons, 20 May 1867

(187 *Parl. Deb.*, 3 s., 817 ff.)

[THE great economist took an opportunity, in the Committee stage of the Conservatives' Reform Bill, to express his views on women's suffrage. His amendment was lost by 123 votes (73-196); but it marked an interesting stage in the campaign.]

It is not just to make distinctions, in rights and privileges, without a positive reason. I do not mean that the electoral franchise, or any other public function, is an abstract right, and that to withhold it from any one, on sufficient grounds of expediency, is a personal wrong; it is a complete misunderstanding of the principle I maintain, to confound this with it; my argument is entirely one of expediency. But there are different orders of expediency; all expediencies are not exactly on the same level; there is an important branch of expediency called justice; and justice, though it does not necessarily require that we should confer political functions on every one, does require that we should not, capriciously and without cause, withhold from one what we give to another. As was most truly said by my right hon. Friend the member for South Lancashire [Mr. Gladstone], in the most misunderstood and misrepresented speech I ever remember; to lay a ground for refusing the suffrage to any one, it is necessary to allege either personal unfitness or public danger. Now, can either of these be alleged in the present case? Can it be pretended that women who manage an estate or conduct a business—who pay rates and taxes, often to a large amount, and frequently from their

own earnings—many of whom are responsible heads of families, and some of whom, in the capacity of school-mistresses, teach much more than a great number of the male electors have ever learnt—are not capable of a function of which every male householder is capable? Or is it feared that if they were admitted to the suffrage they would revolutionize the State—would deprive us of any of our valued institutions, or that we should have worse laws, or be in any way whatever worse governed through the effect of their suffrages? No one, Sir, believes anything of the kind.

And it is not only the general principles of justice that are infringed, or at least set aside, by the exclusion of women, merely as women, from any share in the representation; that exclusion is also repugnant to the particular principles of the British Constitution. It violates one of the oldest of our constitutional maxims—a doctrine dear to Reformers, and theoretically acknowledged by most Conservatives—that taxation and representation should be co-extensive. Do not women pay taxes? Does not every woman who is *sui juris* contribute exactly as much to the revenue as a man who has the same electoral qualification? If a stake in the country means anything, the owner of freehold or leasehold property has the same stake, whether it is owned by a man or a woman. There is evidence in our constitutional records that women have voted, in counties and in some boroughs, at former, though certainly distant, periods of our history.

The House, however, will doubtless expect that I should not rest my case solely on the general principles either of justice or of the Constitution, but should produce what are called practical arguments. Now, there is one practical argument of great weight, which, I frankly confess, is entirely wanting in the case of women; they do not hold great meetings in the parks, or demonstrations at Islington. How far this omission may be considered to invalidate their claim, I will not undertake to decide; but other practical arguments, practical in the most restricted meaning of the term, are not wanting; and I am prepared

to state them, if I may be permitted first to ask, what are the practical objections?

The difficulty which most people feel on this subject is not a practical objection; there is nothing practical about it, it is a mere feeling—a feeling of strangeness; the proposal is so new; at least they think so, though this is a mistake; it is a very old proposal. Well, Sir, strangeness is a thing which wears off; some things were strange enough to many of us three months ago which are not at all so now; and many are strange now, which will not be strange to the same persons a few years hence, or even, perhaps, a few months. And as for novelty, we live in a world of novelties; the despotism of custom is on the wane; we are not now satisfied with knowing what a thing is, we ask whether it ought to be; and in this House at least, I am bound to believe that an appeal lies from custom to a higher tribunal, in which reason is judge.

Now, the reasons which custom is in the habit of giving for itself on this subject are usually very brief. That, indeed, is one of my difficulties; it is not easy to refute an interjection; interjections, however, are the only arguments among those we usually hear on this subject, which it seems to me at all difficult to refute. The others mostly present themselves in such aphorisms as these:—Politics are not women's business, and would distract them from their proper duties; women do not desire the suffrage, but would rather be without it; women are sufficiently represented by the representation of their male relatives and connections; women have power enough already. I shall probably be thought to have done enough in the way of answering, if I answer all this; and it may, perhaps, instigate any hon. Gentleman who takes the trouble of replying to me, to produce something more recondite.

Politics, it is said, are not a woman's business. Well, Sir, I rather think that politics are not a man's business either; unless he is one of the few who are selected and paid to devote their time to the public service, or is a member of this or of the other House. The vast majority

of male electors have each his own business which absorbs nearly the whole of his time; but I have not heard that the few hours occupied, once in a few years, in attending at a polling-booth, even if we throw in the time spent in reading newspapers and political treatises, ever causes them to neglect their shops or their counting-houses. I have never understood that those who have votes are worse merchants, or worse lawyers, or worse physicians, or even worse clergymen than other people. One would almost suppose that the British Constitution denied a vote to every one who could not give the greater part of his time to politics; if this were the case we should have a very limited constituency. But allow me to ask, what is the meaning of political freedom? Is it anything but the control of those who do make their business of politics, by those who do not? Is it not the very essence of constitutional liberty, that men come from their looms and their forges to decide, and decide well, whether they are properly governed, and whom they will be governed by? And the nations which prize this privilege the most, and exercise it most fully, are invariably those who excel the most in the common concerns of life. The ordinary occupations of most women are, and are likely to remain, principally domestic; but the notion that these occupations are incompatible with the keenest interest in national affairs, and in all the great interests of humanity, is as utterly futile as the apprehension, once sincerely entertained, that artizans would desert their workshops and their factories if they were taught to read.

I know there is an obscure feeling—a feeling which is ashamed to express itself openly—as if women had no right to care about anything, except how they may be the most useful and devoted servants of some man. But as I am convinced that there is not a single member of this House, whose conscience accuses him of so mean a feeling, I may say without offence, that this claim to confiscate the whole existence of one half of the species for the supposed convenience of the other, appears to me, independently of its injustice, particularly silly. For

who that has had ordinary experience of human affairs, and ordinary capacity of profiting by that experience, fancies that those do their own work best who understand nothing else? A man has lived to little purpose who has not learnt that without general mental cultivation, no particular work that requires understanding is ever done in the best manner. It requires brains to use practical experience; and brains, even without practical experience, go further than any amount of practical experience without brains.

But perhaps it is thought that the ordinary occupations of women are more antagonistic than those of men are to the comprehension of public affairs. It is thought, perhaps, that those who are principally charged with the moral education of the future generations of men, cannot be fit to form an opinion about the moral and educational interests of a people; and that those whose chief daily business is the judicious laying-out of money, so as to produce the greatest results with the smallest means, cannot possibly give any lessons to right hon. Gentlemen on the other side of the House or on this, who contrive to produce such singularly small results with such vast means.

I feel a degree of confidence, Sir, on this subject, which I could not feel, if the political change, in itself not great or formidable, which I advocate, were not grounded, as beneficent and salutary political changes almost always are, upon a previous social change. The notion of a hard and fast line of separation between women's occupations and men's—of forbidding women to take interest in the things which interest men—belongs to a gone-by state of society which is receding further and further into the past. We talk of political revolutions, but we do not sufficiently attend to the fact that there has taken place around us a silent domestic revolution; women and men are, for the first time in history, really each other's companions. Our traditions respecting the proper relations between them have descended from a time when their lives were apart—when they were separate in their

thoughts, because they were separate equally in their amusements and in their serious occupations. In former days a man passed his life among men; all his friendships, all his real intimacies, were with men; with men alone did he consult on any serious business; the wife was either a plaything, or an upper servant. All this, among the educated classes, is now changed. The man no longer gives his spare hours to violent outdoor exercises and boisterous conviviality with male associates; the two sexes now pass their lives together; the women of a man's family are his habitual society; the wife is his chief associate, his most confidential friend, and often his most trusted adviser. Now, does a man wish to have for his nearest companion so closely linked with him, and whose wishes and preferences have so strong a claim on him, one whose thoughts are alien to those which occupy his own mind—one who can neither be a help, a comfort, nor a support, to his noblest feelings and purposes? Is this close and almost exclusive companionship compatible with women's being warned off all large subjects—being taught that they ought not to care for what it is men's duty to care for, and that to have any serious interests outside the household is stepping beyond their province? Is it good for a man to live in complete communion of thoughts and feelings with one who is studiously kept inferior to himself, whose earthly interests are forcibly confined within four walls, and who cultivates, as a grace of character, ignorance and indifference about the most inspiring subjects, those among which his highest duties are cast? Does any one suppose that this can happen without detriment to the man's own character? Sir, the time is now come when, unless women are raised to the level of men, men will be pulled down to theirs. The women of a man's family are either a stimulus and a support to his highest aspirations, or a drag upon them. You may keep them ignorant of politics, but you cannot prevent them from concerning themselves with the least respectable part of politics—its personalities; if they do not understand and cannot enter into the man's

feelings of public duty, they do care about his personal interest, and that is the scale into which their weight will certainly be thrown. They will be an influence always at hand, co-operating with the man's selfish promptings, lying in wait for his moments of moral irresolution, and doubling the strength of every temptation. Even if they maintain a modest forbearance, the mere absence of their sympathy will hang a dead-weight on his moral energies, making him unwilling to make sacrifices which they will feel, and to forgo social advantages and successes in which they would share, for objects which they cannot appreciate. Supposing him fortunate enough to escape any actual sacrifice of conscience, the indirect effect on the higher parts of his own character is still deplorable.

Under an idle notion that the beauties of character of the two sexes are mutually incompatible, men are afraid of manly women; but those who have considered the nature and power of social influences well know, that unless there are manly women, there will not much longer be manly men. When men and women are really companions, if women are frivolous, men will be frivolous; if women care for nothing but personal interest and idle vanities, men in general will care for little else; the two sexes must now rise or sink together. It may be said that women may take interest in great public questions without having votes; they may, certainly; but how many of them will? Education and society have exhausted their power in inculcating on women that their proper rule of conduct is what society expects from them; and the denial of the vote is a proclamation intelligible to every one, that whatever else society may expect, it does not expect that they should concern themselves with public interests. Why, the whole of a girl's thoughts and feelings are toned down by it from her school-days; she does not take the interest even in national history which her brothers do, because it is to be no business of hers when she grows up. If there are women—and now happily there are many—who do interest themselves in these subjects, and do study them, it is because the force within is strong enough

to bear up against the worst kind of discouragement, that which acts not by interposing obstacles, which may be struggled against, but by deadening the spirit which faces and conquers obstacles.

We are told, Sir, that women do not wish for the suffrage. If the fact were so, it would only prove that all women are still under this deadening influence; that the opiate still benumbs their mind and conscience. But great numbers of women do desire the suffrage, and have asked for it by petitions to this House. How do we know how many more thousands there may be who have not asked for what they do not hope to get; or for fear of what may be thought of them by men, or by other women; or from the feeling, so sedulously cultivated in them by their education—aversion to make themselves conspicuous? Men must have a rare power of self-delusion, if they suppose that leading questions put to the ladies of their family or of their acquaintance will elicit their real sentiments, or will be answered with complete sincerity by one woman in 10,000. No one is so well schooled as most women are in making a virtue of necessity; it costs little to disclaim caring for what is not offered; and frankness in the expression of sentiments, which may be displeasing and may be thought uncomplimentary to their nearest connections, is not one of the virtues which a woman's education tends to cultivate, and is, moreover, a virtue attended with sufficient risk to induce prudent women usually to reserve its exercise for cases in which there is a nearer and a more personal interest at stake. However this may be, those who do not care for the suffrage will not use it; either they will not register, or if they do, they will vote as their male relatives advise—by which, as the advantage will probably be about equally shared among all classes, no harm will be done. Those, be they few or many, who do value the privilege, will exercise it, and will receive that stimulus to their faculties, and that widening and liberalizing influence over their feelings and sympathies, which the suffrage seldom fails to produce on those who are admitted to

it. Meanwhile an unworthy stigma would be removed from the whole sex. The law would cease to declare them incapable of serious things; would cease to proclaim that their opinions and wishes are unworthy of regard, on things which concern them equally with men, and on many things which concern them much more than men. They would no longer be classed with children, idiots, and lunatics, as incapable of taking care of either themselves or others, and needing that everything should be done for them, without asking their consent.

REFORM OF THE FRANCHISE
 WILLIAM EWART GLADSTONE

House of Commons, 28 February 1884

(285 *Parl. Deb.*, 3 s., 106 ff.)

[GLADSTONE, as Prime Minister, moved for leave to introduce the Representation of the People Bill. His speech and the debate generally are in contrast with the debates of 1831 and 1866–7. The influence of the electorate and of the party system had, by 1884, brought the discussion on to a quieter plane. No politician was, by this time, prepared to court unpopularity by opposing extensions of the franchise.]

It commonly happens with regard to these large and constitutional questions—and it is well that it should so happen—that, before they are proposed upon the responsibility of the Queen's Government, they have attained to an advanced stage of progress in the public mind through discussion out-of-doors; and, in consequence, it is not necessary very long to detain the House, with the general arguments which, if they were entirely new, would undoubtedly be requisite in order to make a case for the introduction of a Bill. On that part of the subject, therefore, I shall be very brief; but a few words I must necessarily say.

I conceive that this Bill—this proposition—may be presented to the House under any one, and indeed under all, of three distinct and several aspects. In the first place, it is on our part a redemption of a pledge; because, although I do not use the word 'pledge' in its more narrow and objectionable sense, there is no doubt, I think, as regards the persons prominently concerned in conducting the affairs of the country in conjunction with the Liberal Party, that at and before, as well as since, the last election they have constantly assured the country

that they regarded the work of Parliamentary Reform as a proper and vital part of the mission, so to speak, of the present Parliament. The proposition may be regarded, secondly, as intended to satisfy a desire, for our belief is that a desire for the extension of the household franchise to the counties is widely and generally entertained among the classes who are to be affected by that extension. But there is another aspect in which I, for one, should hope that it will still more pointedly and constantly be viewed: it is a proposal in satisfaction of a pledge; it is a proposal to meet a desire; but, above all, it is a proposal, in my view, and I think I may say in our view, to add strength to the State. I am not prepared to discuss admission to the franchise as it was discussed fifty years ago, when Lord John Russell had to state, with almost bated breath, that he expected to add in the Three Kingdoms 500,000 to the constituencies. It is not now a question of nicely calculated less or more. I take my stand on the broad principle that the enfranchisement of capable citizens, be they few or be they many—and if they be many so much the better—gives an addition of strength to the State.

The strength of the modern State lies in the representative system. I rejoice to think that in this happy country and under this happy Constitution we have other sources of strength in the respect paid to various orders of the State, and in the authority they enjoy, and in the unbroken course which has been allowed to most of our national traditions; but still, in the main, it is the representative system which is the strength of the modern State in general, and of the State in this country in particular. Sir, I may say—it is an illustration which will not occupy more than a moment—that never has this great truth been so vividly illustrated as in the War of the American Republic. The convulsion of that country between 1861 and 1865 was, perhaps, the most frightful which ever assailed a national existence. The efforts which were made on both sides were marked. The exertions by which alone the movement was put down were not only extra-

ordinary, they were what would antecedently have been called impossible; and they were only rendered possible by the fact that they proceeded from a nation where every capable citizen was enfranchised, and had a direct and an energetic interest in the well-being and the unity of the State.

Sir, the only question that remains in the general argument is, who are capable citizens? and, fortunately, that is a question which, on the present occasion, need not be argued at length, for it has been already settled—in the first place by a solemn legislative judgment acquiesced in by both parties in the State; and, in the second place, by the experience of the last more than fifteen years. Who, Sir, are the capable citizens of the State, whom it is proposed to enfranchise? It is proposed, in the main, to enfranchise the county population on the footing, and according to the measure, that has already been administered to the population of the towns. What are the main constituents of the county population? First of all, they are the minor tradesmen of the country, and the skilled labourers and artizans in all the common arts of life, and especially in connection with our great mining industry. Is there any doubt that these are capable citizens? You hon. Gentlemen opposite have yourselves asserted it by enfranchising them in the towns; and we can only say that we heartily subscribe to the assertion. But besides the artizans and the minor tradesmen scattered throughout our rural towns, we have also to deal with the peasantry of the country. Is there any doubt that the peasantry of the country are capable citizens, qualified for enfranchisement, qualified to make good use of their power as voters? This is a question which has been solved for us by the first and second Reform Bills; because many of the places which under the name of towns are now represented in this House are really rural communities, based upon a peasant constituency.

For my part, I should be quite ready to fight the battle of the peasant upon general and argumentative grounds. I believe the peasant generally to be, not in the highest

sense, but in a very real sense, a skilled labourer. He is not a man tied down to one mechanical exercise of his physical powers. He is a man who must do many things, and many things which require in him the exercise of active intelligence. But, as I say, it is not necessary to argue on that ground, first of all, because we have got his friends here—on the opposite benches—from whom we must anticipate great zeal for his enfranchisement; and, secondly, because the question has been settled by legislative authority in the towns, and by practical experience. If he has a defect, it is that he is too ready, perhaps, to work with and to accept the influence of his superiors—superiors, I mean, in worldly station. But that is the last defect that hon. Gentlemen opposite will be disposed to plead against him, and it is a defect that we do not feel ourselves entitled to plead, and that we are not at all inclined to plead. We are ready to take him as he is, and joyfully bring him within the reach of this last and highest privilege of the Constitution.

REFORM OF THE FRANCHISE (WOMEN'S SUFFRAGE)

PHILIP SNOWDEN (afterwards Viscount Snowden)

House of Commons, 6 May 1913

(52 H.C. Deb., 5 s., 1895 ff.)

[DEBATE on motion for the Second Reading of the Representation of the People (Women) Bill. This speech was made at the height of the militant campaign for women's suffrage.]

It is now admitted that in some respects women may be the equals of men, indeed, I believe there are some members who have used this argument, who have been willing to admit that in some respects women may be the superiors of men. But it is maintained, and this contention was urged by the hon. Gentleman who has just sat down, that however good women may be in certain respects, whatever their ability may be, whatever their capacity for service may be, however useful and necessary they may be in the economy of nature, yet by nature they have been denied the possession of those special gifts which are necessary for forming an intelligent opinion upon public and political questions. That is the familiar argument of the Prime Minister, and I have no doubt we shall hear it again in the course of the speech which, I believe, the Prime Minister will deliver to-day. Indeed, the burden of the last speech the Prime Minister made in this House upon the question of Women Suffrage was that there was something fundamental in the sex which made it a very great risk to give to women the same political powers which are exercised by men. When the right hon. Gentleman speaks I hope he will be more definite and a little more explicit. I hope he will explain a little more fully what is that fundamental difference between the two sexes which enables men to form intelligent opinions

upon questions and denies that intelligence to women. And may I help him by putting further questions to him? Will he be good enough to say where women lack the capacity to form an intelligent opinion upon matters of national government, while at the same time possessing the ability and capacity to form intelligent opinions about the administration of the laws which are passed by Parliament? For instance, will he tell me wherein lies the difficulty, and what constitutes the difference between the mental capacity required to vote for a certain individual as member of the London County Council, which is entrusted with the administration of the affairs of this great city, and yet not able intelligently to vote for the same man to be returned as a member of this House, which has to make the laws which have to be administered by the London County Council?

I want to know precisely what it is that women lack that enables them to be trusted with the administration of laws and yet disqualifies them from taking part in deciding what the laws shall be. And may I help the Prime Minister still further by asking him to explain why more than once during the last few years he has appointed women on Royal Commissions? He appointed women to the Royal Commission which inquired into the question of the Divorce Law. These women have reported; their Report is supposed to be a recommendation to this House as a basis of legislation. I would very much like to know how it is that women are considered by the Prime Minister to possess intelligence and the qualities necessary to advise this House as to what form this legislation would take, and that yet it would be a danger to the community if women were to be permitted to vote for the election of the men who have to pass these laws. All this talk about the mental inferiority of women is nothing but an example of the colossal conceit of men. You cannot argue with conceit, you can only pity it.

Another of the fundamental objections which is brought against the enfranchisement of women is this, that women do not need votes, that men are not only

anxious, that they are ever ready, as well as able, to do everything for women better than women can do it for themselves. I am quite willing to admit that in recent years the House of Commons has shown a keener interest in women's questions than was formerly the case. It gives more attention to women's affairs. Why? Simply because of the strength of the women's movement outside. Who are the members of this House who are very anxious that the claims of women should receive the consideration of members of this House? Notoriously the anti-suffragist members, because they want to take away the force of the women's contention that women's claims cannot receive proper attention so long as women have not the vote. But I submit that women even now do not get proper consideration in the House of Commons. I could cite a number of measures passed during the last seven or eight years, all of which in many of their provisions are very unfair to women. I might cite the Old Age Pensions Act in the form in which it was introduced, I might cite many of the provisions of the Insurance Act, but I pass away from them, and I make this general statement, that even if this House of Commons, elected by men, did everything for the women that the women could do for themselves, and, if it did it better, that would not in the slightest degree lessen the need for women taking a direct part in the legislation of this country. . . .

I understand that some members who formerly supported Women Suffrage and are going to vote against it to-day say they are not going to be intimidated by violence. But in taking up that attitude they are allowing themselves to be intimidated by violence. They are allowing themselves to be intimidated from doing what they believe to be right because one woman in a thousand has done something they disapprove of. Why, surely, there never was such an absurd estimate of the relative strengths of the influences which ought to affect one's judgment as that estimate is! The right thing, the courageous thing, for these men to do is to say, 'We will

not be influenced by these actions. We will do what we believe to be right', and if they do that then they may depend upon it that rebellion and revolution will cease, because no revolution can continue unless it is based upon a justifiable sense of injustice.

Five times in the last seven years I have seen a Women Suffrage Bill pass the Second Reading in this House by a large majority. There is, as I have already said, no other question to which the House of Commons is so pledged by its past votes as to the enfranchisement of women. Are we to go on for ever making to women those professions of sympathy but giving no practical concession? Tens of thousands of women are being compelled to devote their lives, their means, their energies, and their great abilities to this fight for the political vote, and all the time they are pining to be free in order that they might devote themselves to the work of constructive social reform. Every good cause is immeasurably poorer in service because we condemn women to devote themselves to this fight. They are compelled to do that because they realise that the vote is the primary need to them. Their hearts are sick at the painful and depressing monotony of it all. I do not appeal to the sympathy or the generosity of this House. I appeal to its sense of justice, and I do hope that a large majority of the members of this House will declare by their votes to-night that in their belief the time has come when the self-respect of the British House of Commons demands that this question should be finally settled and should be settled in harmony with those principles of democratic self-government on which alone the greatness and stability of Parliament can be based.

REFORM OF THE FRANCHISE (WOMEN'S
SUFFRAGE)

LADY ASTOR

House of Commons, 29 March 1928

(215 *H.C. Deb.*, 5 s., 1451 ff.)

[DEBATE on motion for the Second Reading of the Representation of the People (Equal Franchise) Bill, which provided that the age qualification for women voters should be 21 instead of 30, as fixed by the Act of 1918.]

If I thought for one minute that the coming of women into public life was going to lower the moral standard and outlook of the country, I should object to this Bill. It is because I believe that they are going to bring a moral and spiritual view into public life, just as some men do, that I support this proposal. I am not saying that women alone bring a moral and spiritual view into public life, but I believe that women have moral and spiritual things at heart because of their children. They have to make preparation for their children. We in England know the things from which our children suffer. The influences that we fear most for our children are the immoral influences. We know, no matter what the material greatness of a country is, that most of the misery, suffering and sickness comes from the double moral standard. You may say that that is a far-off vision, but it is a vision that we have all got ahead of us and a vision that a great many men as well as women possess. This trust in women is not only a step forward for women; it is a step forward for the men, too. After all, we are progressing. We know that people are governed by our ideas, and we do not judge persons by their sex but by their consciousness. If a good idea comes into the world we do not ask where it comes from, but test it to see whether it is good or whether it is bad.

It is in trying to divide mankind into sexes and keeping them in these divisions that so many of our troubles have come. An hon. Gentleman has asked whether there is not a woman's point of view. The truth is, that man is such a mixture of woman and man. Sometimes a woman may be moved by the male in her just as a man may be moved by the female in him. I think that people are beginning to see that, and the more they see it the more we shall progress. Men cannot go forward alone, and we know perfectly well that the men who are foremost in vision and outlook are the men who are influenced by good women. An hon. Member says, 'Not in the ballot box.' I would like to tell him that I had the privilege of being the first woman in the House of Commons, and sometimes I used to doubt whether it was a privilege. When I stood up and asked questions affecting women and children, social and moral questions, I used to be shouted at for five or ten minutes at a time. That was when they thought that I was rather a freak, a voice crying in the wilderness. But as the women became more and more interested in these questions, the more and more I stood there knowing full well that there was an army outside behind me. I can testify to the change that has taken place in this House of Commons since women had a vote in the country. We all know that before women had votes, taking the twelve years before they had the vote, there were only five measures passed dealing with women and with things affecting women and children. From 1918 onwards we have had twenty measures passed affecting women and children. I am not blaming the men at all, but simply showing that already we see the effect that women's influence in the country is having on legislation.

I do not think, as an hon. Member has said, that we should be frightened of the women of 21. Have the men of 21 let the country down? Have they done anything foolish and retrograde? Really, that is a poor argument, and it is not based upon reason. It is based upon prejudice and fear. I rejoice to think that the Prime Minister

has shown vision, foresight and courage in going forward. I am very sorry that hon. Members should have exposed their fears to the House of Commons. One of the most remarkable features concerning the party to which I have the honour to belong is that we should be able to go forward in spite of such albatrosses about our necks. I hope, and indeed I am perfectly certain, in spite of these Jeremiahs and their fears, that the young women of the country will never let them down. If hon. Members would only realise the longing there is in the hearts of thousands of women to make this country, for which so many of their fathers and brothers died, a better place, they would realise that the Prime Minister and the whole House of Commons are doing, not what is worst for the country but what is best in the interests of the country.

REFORM OF THE FRANCHISE (WOMEN'S
SUFFRAGE)

STANLEY BALDWIN (*afterwards Earl Baldwin of
Bewdley*)

House of Commons, 29 March 1928

(215 *H.C. Deb.*, 5 s., 1473 ff.)

[SEE note on No. 93.]

Why is it that at the end of this struggle we find this Bill being accepted with enthusiasm in some quarters, with tolerance in others, possibly with indifference here and there, but with very little real and substantial opposition? The reason is, I think, that the minds and the hearts of our people are fitted for the complete enfranchisement of women by the experience of the War. This is more than a matter of logic. The logic is all on one side, but there is a deep-rooted feeling and instinct which animates many men on both sides. The feeling which animates those who vote against this measure is that instinctive feeling against giving women the vote which has existed for so long, which has become much less, but which still exists, and probably will continue to exist in a lessening degree. Before the War, the work and the education of women had been expanding in many directions, but, when the War came, there was an overwhelming demonstration before our eyes of the part played by woman in every phase and sphere and function of our national life, and, to those of us who saw the part that she played in the War, there seems to be something almost ridiculous in refusing her claim to equal citizenship.

With the War, the heart went out of that opposition. We have allowed women since the War to sit in this House; they have been at the head of our political organi-

sations; we welcome their assistance in a hundred ways; the Civil Service and the professions are open to them, and it became absurd, in the presence of these facts, to maintain the position that many of us had maintained before the War. I am not myself alarmed at the numerical preponderance of women. I think it is a complete fallacy to imagine that they will vote by class or by sex. They will be divided exactly as we are. There has been a unity amongst them which has been evoked by the struggle in which they have been engaged to obtain these elementary rights, and, with the obtaining of these rights, that particular unity which bound them together in the pursuit of a common end will be gone, and they will judge of political affairs according to their temperament and according to their experience, in exactly the same way that we do.

There has been, no doubt—this, I think, has perhaps been missed by my hon. Friends who are opposing the measure—a feeling amongst women for a long time past that as the franchise was being more and more extended and practically all men added, woman, by the fact of being outside the franchise, was placed in a position of less responsibility, even of inferiority. You may not sympathise with it, but that feeling was there, and it was that feeling, in my judgment, that strengthened them in their fight and was their justification for that fight, so long and so bitter at times. But that fight is over now, and with the conclusion of it, and with the complete enfranchisement of women, I think there will come what we all desire to see, and that is a rational companionship in working together between men and women for the betterment of their country. Through the ages past we men have not always taken a rational view of women. We have either put her up on a pedestal or plunged her down in the pit. As a matter of fact, she occupies a middle position. I was very pleased to read in a book recently written by a woman on the work of women that she declared as the result of her investigations, which dealt largely with the mediaeval period of history, that

'the position of women was very much what commonsense would indicate. Her position was one neither of inferiority nor of superiority, but of a certain rough-and-ready equality.'

That is good enough for me.

Once this Bill is law the last fraction of truth about inequality will have gone, and gone for ever, and the subjection of women, if there be such a thing, will not depend then on any creation of the law, nor can it be remedied by any action of the law. The fault is not in our stars but in ourselves that we are underlings. It will never again be possible to blame the Sovereign State for any position of inequality. Women will have, with us, the fullest rights. The ground and justification for the old agitation, as I said, is gone and gone for ever. But they will find that, hard as was the struggle to gain this freedom, the right use of this freedom to attain their ideals will be harder still. The attainment of an ideal is very often the beginning of disillusion, and they must look at fresh horizons as they come out and make for fresh ideals.

REFORM OF THE FRANCHISE

LORD SUMNER

*House of Lords, 21 May 1928**(71 H.L. Deb., 5 s., 193 ff.)*

[DEBATE on motion for Second Reading of the Representation of the People (Equal Franchise) Bill. There was but little opposition to the extension of the franchise in 1884, and less in 1918 and 1928. Lord Sumner was one of the very few who criticized the Bill.]

May I ask your Lordships to consider some of the consequences of this measure, because, frankly, I assume that it is going to pass? A Government which waves its hand and is supported by both bodies of its opponents, a Government which in the House of Commons has only ten of its own supporters in the Lobby against it, is a Government which I imagine can rest quite confidently on the assurance that this Bill will pass its Second Reading to-morrow. Consider, however, one or two of the new factors, that will be introduced into politics. I understand that the electorate will number about 26,000,000 under the Bill, and although I do not profess to know anything about vital statistics, I assume that out of a total population of 44,000,000, after you have deducted the people under 21 and the people in the gaols, and the lunatics, and your Lordships, pretty nearly the whole of them will be entitled to vote.

This is a fact which I believe everybody interested in the welfare of this country at present ought to brand upon his mind, and never forget it as long as he lives. The people who pay the direct taxes of this country are the Income Tax payers, and the people who pay the Super-Tax, the people who in substance pay the Death Duties—perhaps I am wrong there, for they are dead and have got out of it, but somebody else pays out of what

they have left—and the people who pay sundry other minor imposts. The people who are charged to Income Tax number some 2,400,000 persons. About one in ten of those who vote will bear the burden of the direct taxation that may be involved in the result of the vote. They are scattered about in all constituencies. I do not suppose there is any constituency in which they are sufficiently numerous to make any impression upon the voting, and although I am not making any attack on this ground upon the intelligence or virtue of those who vote and do not pay, the result is that when new legislation involves, as it constantly does involve, new expenditure and, what is more serious, permanent expenditure, you will find that it will be imposed by the votes of the 26,000,000 voters, *minus* 2,400,000, upon the pockets of the 2,400,000 tax payers. That is the way in which our system is permanently carried on. It is quite true that there is a large body of indirect taxes, but what a very large part of that is contributed by wine, beer and spirits! The taxes on wine are mostly contributed by the 2,400,000 and their families. Beer is one of those sources of revenue which it is almost indecent now to allude to and which is perpetually being held up as one of those plagues of society which all good persons, and women particularly, are concerned to destroy.

Personally I think the woman's vote is quite as good as the man's. In saying that I do not wish to be understood as expressing very great admiration for it, but I have not been able to see why, in the same classes and at the same ages, women are to be expected to vote more disastrously for the country than men, except for one thing, that as a rule they are not quite so directly engaged in the earning of their livelihood as men are, although even that is not on so large a scale as to matter considerably. Women have, however, certain general characteristics. They have warm hearts and quick emotions, and they are anxious to do good without considering too long whether they are on the right track or not. I deprecate very much the necessity of discussing the peculiar charac-

teristics of the two sexes, but you cannot get on without doing so.

My reason for dwelling upon the matter is this. At a general election there are two dangers which stand between a candidate and a voter—the vast size of the constituency to which he has to address himself, and the immense driving force of small bodies of highly organised and determined persons, who, though relatively small in numbers, are able to command in each constituency a formidable number of votes, and who under the banner of their cause can say: ‘The price of our votes is your vote for our cause.’ In the case of total abstinence I think the experience of the United States warrants one in saying that the strength of the agitation at the polls, for prohibition or extreme restriction of the liquor trade, will be largely carried on by the preponderating body of women voters, organised, inspired and led by the pertinacious, determined and resolute leaders in whose hands that cause is.

Suppose by a well-managed series of operations at a general election, at which the issue is uncertain, a sweeping demand were made by well-distributed voters for prohibition, in some form or other, and, as candidates must get votes or be rejected—which is a contingency they are not prepared to face—suppose the candidates were to say: ‘Of course, we will adopt and vote for this excellent proposition.’ Suppose a young House meets and the Government is supported by a considerable majority of people on both sides, who number among their constituents voters who can only be appeased by support for their particular nostrum; suppose that the Government therefore adopts, as a measure of moment, a prohibition measure. It is quite certain in my mind that in those circumstances such a measure would secure an immense amount of support. Then suppose the Bill passed in another place. What is the power of your Lordships to stand between the immediate passing of such a measure as that, due very largely to the animation and zeal of women voters, and the completion of the

campaign? What effective power have your Lordships now to prevent the passing of such a measure, which, in the circumstances I am indicating to your Lordships, is a hasty and ill-considered measure, because no time has been given to it by most of those who vote for it?

I think the real thing that we ought to bear in mind, and carry away from this Bill, is this, that if a Bill introduced without pledges is a justifiable measure to extend the Constitution in one direction, another Bill which rests upon the most positive pledges already given, pledges to be performed within the lifetime of this Parliament, ought also to be passed as an indispensable concomitant, in order to preserve the balance of the Constitution and to prevent disastrous legislation, which no one will regret more than those who have for the time being been led away by it. On the one side, such a measure as that, which I am now taking as an example, sweeps indispensable millions away from the revenue which cannot be replaced; on the other side it confiscates property, which those who own it are entitled, according to our existing notions, to retain. As long as you have a Constitution in which there is no sufficient *liaison* between those who find the money and those who find the policy and give the votes, so long you will always be exposing yourselves, with these gigantic, amorphous, unmanageable electorates, to unnecessary and ill-considered legislation, which in the long run can do nothing but harm.

REFORM OF THE FRANCHISE (WOMEN'S SUFFRAGE)

EARL OF BIRKENHEAD

House of Lords, 22 May 1928

(71 *H.L. Deb.*, 5 s., 251 ff.)

[SEE note on No. 95.]

It is worth while going into the history of this matter. Through my own attitude in relation to it there runs a golden vein of consistency which, inasmuch as it has been much misunderstood, I take the opportunity of making once again very plain. I was against the extension of the franchise to women. I am against the extension of the franchise to women. I always shall be against the extension of the franchise to women. There is not the slightest inconsistency in my career in regard to it, nor is there the slightest inconsistency in my standing at this Box to-night and recommending this measure. And, if your Lordships will be patient with me, I will make this matter of history—and history when political is very easily forgotten—indisputably plain. It was in the year 1918, after the War, that the disaster took place. Had it not been for the War in my judgment we should have continued successfully to resist this measure for an indefinite period of time. But what happened? In that year, in which nearly everybody went mad, when the phrases of President Wilson and his predictions were translated into logical and mathematical conclusions, and we talked of self-determination when we made the Peace Treaty—it was in that year that a discussion arose as to the extension of the franchise. I believe, equally without inconsistency, I was the Minister in charge of that Bill as Attorney-General in another place.

Let me describe to your Lordships how gradually, yet how inevitably we descended the slippery slope. First of

all, it was not proposed that women should be included. Then a member of the House of Commons, and an important one, said that whoever was included or was not included, it was quite impossible to exclude from the franchise the brave men who had supported our cause in the field. Although it is not a political or a philosophic certainty that a man who has supported your cause in the field is necessarily equally qualified to support your cause at the polls, that argument in the spirit of the moment was accepted with facile enthusiasm, and accordingly the soldiers were admitted, subject to the qualification of age and without reference to any other very rigorous examination. Then another member of the House arose and said: 'If you are extending the franchise to our brave soldiers in recognition of their valour on the field how about our brave munition workers, many of whom would greatly have desired to serve in the field, but who were not allowed to do so because of the immensely greater services which they were rendering to the nation by their work in relation to munitions?' That argument, too, was difficult to resist when once you had yielded to the first. Then an insidious and subtle member of the House said: 'How about our brave women munition workers?' and, having once on principle yielded to the first argument, it was absolutely impossible to resist the second. It is certainly true that had you challenged a Division in the House of Commons of that day upon this subject the minority would have been negligible against the proposal to enfranchise the women, after the Conference and discussion which, as noble Lords will remember, took place.

In those circumstances—preserving, as I made it plain to the House of Commons of that day in not opposing that Bill that I did preserve, all my old objections and prejudices—was I to say: 'I will leave this Government because I am in a small minority in the House of Commons'? I have spent nearly the whole of my political life in giving wise advice to my fellow countrymen, which they have almost invariably disregarded, and if I had resigned every time that my wise and advantageous advice

was rejected I should seldom, indeed, during that critical period have been in office. I, therefore, reasonably took the view, making a frank explanation to the House of Commons of the position in which I found myself, that it was my duty as Attorney-General to carry out the wishes of the Government; but I expressly made my advocacy of that Bill conditional upon my complete freedom to explain the circumstances in which I found myself at the moment as its paradoxical champion. I claim the same freedom to-night.

Let me for a moment discuss the real issue which is before this House. Nearly all the arguments that have been addressed to your Lordships have been arguments that would have been valuable, timely and relevant in the year 1919. I have not heard one argument in the course of debate which has the slightest value in the period which we have reached. What is the use of saying that we ought to wait until after the next general election—that we ought to give the people a chance at the next general election to give an opinion which it is said they have never yet expressed? I do not know whether they have expressed an opinion or not. I do not argue it, because the argument is in my judgment irrelevant. Suppose your Lordships took the grave and most unwise responsibility of rejecting this Bill tonight, what would happen at the next general election? The Leader of the Labour Party, the Leader of the Liberal Party and the Leader of the Conservative Party would all go to the country and say: 'We profoundly resent the attitude of the House of Lords and we all of us pledge ourselves to re-introduce this Bill at once, the moment the election has taken place.' I picture Lord Banbury taking the field and informing the country that if he is returned to power it is his purpose to refuse to carry this Bill into law. These things are not done by members of this House without organisation, or parties, or followings. When you are to attempt a prognosis of that which the country will do you must address yourselves to it in the spirit of practical politicians. Once you know that the leaders of all the

parties and the organisations of all the parties are deeply pledged to this change it is folly to make a recommendation to your Lordships which, if adopted, would cover this House with ridicule. We know that such a course could never be taken by an Assembly which, upon so many grave and critical occasions, has given evidence of prudence and sanity.

We have to-day to meet a new situation. I have made it plain that I did and do contemplate the results with anxiety, but let us realise that when once both Houses have affirmed as a matter of principle in the Preamble to the 1919 Act, as the noble and learned Lord upon the Woolsack reminded us, that men and women were to be equal, there was indeed a kind of hypocrisy and insincerity in relation to which we had little defence, when we put it off year after year and said that women of twenty-one are not as mature and not as sophisticated as men of twenty-one. Everyone of us in our hearts knows that a woman of twenty-one is far more mature and far more sophisticated than a man of twenty-one. The moment, therefore, you had settled the principle that women were to have votes at all it became a lost cause to argue that there should be differentiation between people of the same ages. *Victrix causa Diis placuit, sed victa Catoni*. This House has never consisted of Catos. My recommendation to your Lordships is to go into the Lobby in favour of this Bill, if without enthusiasm yet in a spirit of resolute resignation.

IX
IMPERIAL RELATIONS

TAXATION OF COLONIES

*WILLIAM PITT (afterwards Earl of Chatham)**House of Commons, 17 December 1765**(16 Parl. Hist. 98 ff.)*

[THIS speech, made in the debate on the Address of Thanks for the Speech from the Throne at the opening of the new session, was described as having an amazing effect both at home and in America.]

I hope a day may soon be appointed to consider the state of the nation with respect to America. I hope gentlemen will come to this debate with all the temper and impartiality that His Majesty recommends, and the importance of the subject requires. A subject of greater importance than ever engaged the attention of this House! that subject only excepted, when near a century ago, it was the question whether you yourselves were to be bound, or free. In the mean time, as I cannot depend upon health for any future day, such is the nature of my infirmities, I will beg to say a few words at present, leaving the justice, the equity, the policy, the expediency of the act, to another time.

I will only speak to one point, a point which seems not to have been generally understood, I mean to the right. Some gentlemen [alluding to Mr. Nugent] seem to have considered it as a point of honour. If gentlemen consider it in that light, they leave all measures of right and wrong, to follow a delusion that may lead to destruction. It is my opinion, that this kingdom has no right to lay a tax upon the colonies. At the same time, I assert the authority of this kingdom over the colonies, to be sovereign and supreme, in every circumstance of government and legislation whatsoever. They are the subjects of this kingdom, equally entitled with yourselves to all the natural rights of mankind and the peculiar privileges of

Englishmen. Equally bound by its laws, and equally participating of the constitution of this free country. The Americans are the sons, not the bastards, of England.

Taxation is no part of the governing or legislative power. The taxes are a voluntary gift and grant of the Commons alone. In legislation the three estates of the realm are alike concerned, but the concurrence of the Peers and the Crown to a tax, is only necessary to close with the form of a law. The gift and grant is of the Commons alone. In ancient days, the Crown, the barons, and the clergy possessed the lands. In those days, the barons and the clergy gave and granted to the Crown. They gave and granted what was their own. At present, since the discovery of America, and other circumstances permitting, the Commons are become the proprietors of the land. The Crown has divested itself of its great estates. The Church (God bless it) has but a pittance. The property of the Lords, compared with that of the Commons, is as a drop of water in the ocean: and this House represents those Commons, the proprietors of the lands; and those proprietors virtually represent the rest of the inhabitants. When, therefore, in this House we give and grant, we give and grant what is our own. But in an American tax, what do we do? We, your Majesty's Commons of Great Britain, give and grant to your Majesty, what? Our own property? No. We give and grant to your Majesty, the property of your Majesty's commons of America. It is an absurdity in terms.

The distinction between legislation and taxation is essentially necessary to liberty. The Crown, the Peers, are equally legislative powers with the Commons. If taxation be a part of simple legislation, the Crown, the Peers, have rights in taxation as well as yourselves: rights which they will claim, which they will exercise, whenever the principle can be supported by power.

There is an idea in some, that the colonies are virtually represented in this House. I would fain know by whom an American is represented here? Is he represented by any knight of the shire, in any county in this kingdom?

Would to God that respectable representation was augmented to a greater number! Or will you tell him, that he is represented by any representative of a borough—a borough, which perhaps, its own representative never saw. This is what is called, ‘the rotten part of the Constitution’. It cannot continue the century; if it does not drop, it must be amputated. The idea of a virtual representation of America in this House, is the most contemptible idea that ever entered into the head of a man; it does not deserve a serious refutation.

The Commons of America, represented in their several assemblies, have ever been in possession of the exercise of this, their constitutional right, of giving and granting their own money. They would have been slaves if they had not enjoyed it. At the same time, this kingdom, as the supreme governing and legislative power, has always bound the colonies by her laws, by her regulations, and restrictions in trade, in navigation, in manufactures, in everything, except that of taking their money out of their pockets without their consent.

Here I would draw the line,

‘*Quam ultra citraque nequit consistere rectum.*’

[The concluding passages of the speech were not audible to the reporter.]

TAXATION OF COLONIES

LORD CAMDEN

House of Lords, 24 February 1766(16 *Parl. Hist.* 178 ff.)

[LORD CAMDEN was a valuable supporter of Pitt's views on the taxation of the Colonies. This speech was made against the American Declaratory Bill (i.e. a Bill declaring the right of Great Britain to make laws binding the British Colonies in North America).]

My position is this—I repeat it—I will maintain it to my last hour,—taxation and representation are inseparable;—this position is founded on the laws of nature; it is more, it is itself an eternal law of nature; for whatever is a man's own, is absolutely his own; no man hath a right to take it from him without his consent, either expressed by himself or representative; whoever attempts to do it, attempts an injury; whoever does it, commits a robbery; he throws down and destroys the distinction between liberty and slavery. Taxation and representation are coeval with and essential to this Constitution. I wish the maxim of Machiavel was followed, that of examining a constitution, at certain periods, according to its first principles; this would correct abuses and supply defects. I wish the times would bear it, and that men's minds were cool enough to enter upon such a task, and that the representative authority of this kingdom was more equally settled.

I am sure some histories, of late published, have done great mischief; to endeavour to fix the æra when the House of Commons began in this kingdom, is a most pernicious and destructive attempt; to fix it in an Edward's or Henry's reign, is owing to the idle dreams of some whimsical, ill-judging antiquarians: but, my Lords, this is a point too important to be left to such

wrong-headed people. When did the House of Commons first begin? when, my Lords? it began with the Constitution, it grew up with the Constitution; there is not a blade of grass growing in the most obscure corner of this kingdom, which is not, which was not ever, represented since the Constitution began; there is not a blade of grass, which when taxed, was not taxed by the consent of the proprietor. . . . My Lords, I challenge any one to point out the time when any tax was laid upon any person by Parliament, that person being unrepresented in Parliament. My Lords, the Parliament laid a tax upon the palatinate of Chester, and ordered commissioners to collect it there: as commissioners were ordered to collect it in other counties; but the palatinate refused to comply; they addressed the King by petition, setting forth, that the English Parliament had no right to tax them, that they had a Parliament of their own, that they had always taxed themselves, and therefore desired the King to order his commissioners not to proceed. My Lords, the King received the petition; he did not declare them either seditious or rebellious, but allowed their plea, and they taxed themselves. Your Lordships may see both the petition and the King's answer in the records in the Tower. The clergy taxed themselves; when the Parliament attempted to tax them, they stoutly refused; said they were not represented there; that they had a Parliament of their own, which represented the clergy; that they would tax themselves; they did so. Much stress has been laid upon Wales, before it was united as it now is, as if the King, standing in the place of their former princes of that country, raised money by his own authority; but the real fact is otherwise; for I find that, long before Wales was subdued, the northern counties of that principality had representatives, and a Parliament or Assembly. As to Ireland, my Lords, before that kingdom had a Parliament as it now has, if your Lordships will examine the old records, you will find, that when a tax was to be laid on that country, the Irish sent over here representatives; and the same records will inform your Lordships, what wages

those representatives received from their constituents. In short, my Lords, from the whole of our history, from the earliest period, you will find that taxation and representation were always united; so true are the words of that consummate reasoner and politician Mr. Locke. I before alluded to his book; I have again consulted him; and finding what he writes so applicable to the subject in hand, and so much in favour of my sentiments, I beg your Lordships' leave to read a little of this book.

'The supreme power cannot take from any men any part of his property, without his consent'; and Book 2, pp. 136-139, particularly 140. Such are the words of this great man, and which are well worth your serious attention. His principles are drawn from the heart of our constitution, which he thoroughly understood, and will last as long as that shall last; and, to his immortal honour, I know not to what, under providence, the Revolution, and all its happy effects, are more owing than to the principles of government laid down by Mr. Locke.

For these reasons, my Lords, I can never give my assent to any bill for taxing the American colonies, while they remain unrepresented; for as to the distinction of a virtual representation, it is so absurd as not to deserve an answer; I therefore pass it over with contempt. The forefathers of the Americans did not leave their native country, and subject themselves to every danger and distress, to be reduced to a state of slavery: they did not give up their rights; they looked for protection, and not for chains, from their mother country; by her they expected to be defended in the possession of their property, and not to be deprived of it: for, should the present power continue, there is nothing which they can call their own; or to use the words of Mr. Locke, 'What property have they in that which another may, by right, take, when he pleases, to himself?'

TAXATION OF COLONIES

EDMUND BURKE

House of Commons, 19 April 1774(17 *Parl. Hist.* 1264 ff.)

[IN the concluding passages of this famous speech Burke threw out a few remarks on 'the Constitution of the British Empire'. The speech was made on a motion for the repeal of the American Tea Duty Act. The motion was defeated by a large majority. The attitude of the Government may be illustrated by the quotation of a sentence at the end of Lord North's speech: 'Convince your colonies that you are able, and not afraid to controul them, and depend upon it, obedience will be the result of your deliberation; let us conduct ourselves with firmness and resolution throughout the whole of these measures, and there is not the least doubt but peace and quietude will soon be restored.']

Let us, Sir, embrace some system or other before we end this session. Do you mean to tax America, and to draw a productive revenue from thence? If you do, speak out; name, fix, ascertain this revenue; settle its quantity; define its objects; provide for its collection; and then fight when you have something to fight for. If you murder—rob! If you kill, take possession; and do not appear in the character of madmen, as well as assassins, violent, vindictive, bloody, and tyrannical without an object. But may better counsels guide you!

Again, and again, revert to your old principles—seek peace and ensue it—leave America, if she has taxable matter in her, to tax herself. I am not here going into the distinctions of rights, not attempting to mark their boundaries. I do not enter into these metaphysical distinctions; I hate the very sound of them. Leave the Americans as they anciently stood, and these distinctions, born

of our unhappy contest, will die along with it. They and we, and their and our ancestors, have been happy under that system. Let the memory of all actions, in contradiction to that good old mode, on both sides, be extinguished for ever. Be content to bind America by laws of trade; you have always done it. Let it be your reason for not taxing. These are the arguments of states and kingdoms. Leave the rest to the schools; for there only they may be discussed with safety. But if, intemperately, unwisely, fatally, you sophisticate and poison the very source of government, by urging subtle deductions, and consequences odious to those who govern, from the unlimited and illimitable nature of supreme sovereignty, you will teach them by these means to call that sovereignty itself in question. When you drive him hard, the boar will surely turn upon the hunters. If that sovereignty and their freedom cannot be reconciled which will they take? They will cast your sovereignty in your face. Nobody will be argued into slavery. Sir, let the gentlemen on the other side call forth all their ability; let the best of them get up, and tell me, what one character of liberty the Americans have, and what one brand of slavery they are free from, if they are bound in their poverty and industry, by all the restraints you can imagine on commerce, and at the same time are made pack-horses of every tax you choose to impose, without the least share in granting them. When they bear the burdens of unlimited monopoly, will you bring them to bear the burdens of unlimited revenue too? The Englishman in America will feel that this is slavery—that it is legal slavery will be no compensation, either to his feelings or his understanding.

A noble Lord [Lord Carmarthen], who spoke some time ago, is full of the fire of ingenuous youth; and when he has modelled the ideas of a lively imagination by further experience, he will be an ornament to his country in either House. He has said that the Americans are our children, and how can they revolt against their parent? He says, that if they are not free in their present state,

England is not free; because Manchester, and other considerable places, are not represented. So then, because some towns in England are not represented, America is to have no representative at all. They are 'our children'; but when children ask for bread we are not to give a stone. Is it because the natural resistance of things, and the various mutations of time, hinders our government, or any scheme of government, from being any more than a sort of approximation to the right, is it therefore that the colonies are to recede from it infinitely? When this child of ours wishes to assimilate to its parent, and to reflect with a true filial resemblance the beauteous countenance of British liberty; are we to turn to them the shameful parts of our Constitution? Are we to give them our weakness for their strength; our opprobrium for their glory; and the slough of slavery, which we are not able to work off, to serve them for their freedom?

If this be the case, ask yourselves this question, will they be content in such a state of slavery? If not, look to the consequences. Reflect how you are to govern a people, who think they ought to be free and think they are not. Your scheme yields no revenue; it yields nothing but discontent, disorder, disobedience; and such is the state of America, that after wading up to your eyes in blood, you could only end just where you begun; that is, to tax where no revenue is to be found, to—my voice fails me; my inclination indeed carries me no further—all is confusion beyond it.

Well, Sir, I have recovered a little, and before I sit down I must say something to another point with which gentlemen urge us. What is to become of the Declaratory Act asserting the entireness of British legislative authority, if we abandon the practice of taxation?

For my part I look upon the rights stated in that Act, exactly in the manner in which I viewed them on its very first proposition, and which I have often taken the liberty, with great humility, to lay before you. I look, I say, on the Imperial rights of Great Britain, and the privileges which the colonists ought to enjoy under these

rights, to be just the most reconcilable things in the world. The Parliament of Great Britain sits at the head of her extensive Empire in two capacities: one as the local legislature of this island, providing for all things at home, immediately, and by no other instrument than the executive power. The other, and I think her nobler capacity, is what I call her Imperial character; in which, as from the throne of heaven, she superintends all the several inferior legislatures, and guides and controls them all, without annihilating any. As all these provincial legislatures are only co-ordinate with each other, they ought all to be subordinate to her; else they can neither preserve mutual peace, nor hope for mutual justice, nor effectually afford mutual assistance. It is necessary to coerce the negligent, to restrain the violent, and to aid the weak and deficient, by the overruling plenitude of her power. She is never to intrude into the place of the others, whilst they are equal to the common ends of their institution. But in order to enable Parliament to answer all these ends of provident and beneficent superintendence, her powers must be boundless. The gentlemen who think the powers of Parliament limited, may please themselves to talk of requisitions. But suppose the requisitions are not obeyed? What! Shall there be no reserved power in the Empire, to supply a deficiency which may weaken, divide, and dissipate the whole? We are engaged in war—the Secretary of State calls upon the colonies to contribute—some would do it, I think most would cheerfully furnish whatever is demanded—one or two, suppose, hang back, and easing themselves, let the stress of the draught lie on the others—surely it is proper that some authority might legally say—‘Tax yourselves for the common supply, or parliament will do it for you.’ This backwardness was, I am told, the case of Pennsylvania for some short time towards the beginning of the last war, owing to some internal dissensions in the colony. But whether the fact were so or otherwise, the case is equally to be provided for by a competent sovereign power. But then this ought to be no ordinary power;

nor ever used in the first instance. This is what I meant, when I have said at various times, that I consider the power of taxing in Parliament as an instrument of empire, and not as a means of supply.

Such, Sir, is my idea of the constitution of the British Empire, as distinguished from the constitution of Britain; and on these grounds I think subordination and liberty may be sufficiently reconciled through the whole; whether to serve a refining speculatist, or a factious demagogue, I know not; but enough surely for the ease and happiness of man.

Sir, whilst we held this happy course, we drew more from the colonies than all the impotent violence of despotism ever could extort from them. We did this abundantly in the last war. It has never been once denied—and what reason have we to imagine that the colonies would not have proceeded in supplying Government as liberally, if you had not stepped in and hindered them from contributing, by interrupting the channel in which their liberality flowed with so strong a course; by attempting to take, instead of being satisfied to receive? Sir William Temple says that Holland has loaded itself with ten times the impositions which it revolted from Spain rather than submit to. He says true. Tyranny is a poor provider. It knows neither how to accumulate, nor how to extract.

I charge therefore to this new and unfortunate system the loss not only of peace, of union, and of commerce, but even of revenue, which its friends are contending for. It is morally certain, that we have lost a million of free grants since the peace. I think we have lost a great deal more; and that those, who look for a revenue from the provinces, never could have pursued, even in that light, a course more directly repugnant to their purposes.

COLONIAL POLICY

SIR WILLIAM MOLESWORTH

*House of Commons, 26 June 1849**(106 Parl. Deb., 3 s., 937 ff.)*

[MOLESWORTH moved for the appointment of a Royal Commission to inquire into the administration of the Colonies. The motion was lost (89–163). The maker of this speech was recognised to be second to none as an authority on Colonial Government; and his reputation became enhanced as the subject was more generally understood by politicians.]

I make this motion because I share in the belief which now prevails, that our system of colonial government is in many respects faulty, and ill-suited to the present state of Great Britain and of the colonies. Therefore, I maintain that it requires revision; and, for the purpose of revision, I ask that a searching inquiry should be made into the colonial polity of the British Empire. With the permission of the House, I will state, as briefly as I can, what, in my opinion, should be the nature of the inquiry, and to what subjects it should be directed. But, first, in order to satisfy the House that there ought to be an inquiry, I will endeavour to show what has produced the general conviction that there are grave errors and defects in our colonial polity.

What I mean by the term 'colonial polity of Great Britain' is of recent date, not more than three quarters of a century old. For, when we began to colonise, the Government had little or nothing to do with it, and, strictly speaking, there was no polity. Our first colonies were planted by adventurers, who left this country for various reasons: some in search of the precious metals; others to escape from intolerance at home; and others to enjoy intolerance abroad. They settled on the shores

of America with the nominal sanction of the Crown. Fortunately for them, civil conflicts in England, and the weakness of the Executive, left them for many years unmolested in full enjoyment of virtual independence. They flourished; their numbers increased rapidly; they became wealthy and powerful. Meanwhile, the Executive in this country gradually acquired strength; its attention was directed to the prosperity of the colonies; it attempted systematically to interfere in their government; the colonies resisted; some rebelled and became independent; the remainder submitted; and the present system of colonial government was founded upon the ruins of our old colonial empire.

By far the greater portion of our modern colonial empire is of recent acquisition; all of it, with the exception of the plantations in the West Indies, and two or three old colonies in North America, has been acquired within the last ninety years, most of it within the last fifty years; for instance, the Canadas in 1759; Trinidad and other West Indian islands, Ceylon, and New South Wales, in the interval between 1763 and 1797; the rest of Australia, New Zealand, the whole of South Africa, British Guiana, the Mauritius, Malta, the Ionian Islands, Heligoland, Hong-Kong, and Labuan, are not (as the noble Lord, the Prime Minister once called them) precious inheritances from our noble ancestors, but have been added to the British dominions since the beginning of this century. These colonies have been acquired for various reasons. Some we conquered because we grudged the possession of them to rival Powers, and fancied that the might of a nation was in proportion to the extent of its territory; others we held as outposts, on the plea of protecting our own trade, and injuring the trade of other countries; and others we occupied as places of punishment for our criminals. Thus our colonial empire consisted chiefly of conquered provinces, garrison towns, and gaols. Their government was entrusted to a central authority in England. The invariable tendency of such an authority is to grasp as much power as possible, and to resist every

measure which seems likely either directly or indirectly to diminish that power. In conformity with these tendencies, the colonial polity of Great Britain was framed; and the Colonial Office laid claims to omnipotence and infallibility in all matters concerning the colonies. That claim was long recognised in this country, and scarcely disputed in the colonies. But of late years it has been contested not so much within as without the walls of this House; and every colony has repeatedly and energetically protested against it; and now the conviction is daily gaining ground throughout the Empire, that our colonial system is not well suited either to the state of Great Britain or of the colonies.

The conviction that our colonial polity is faulty has acquired strength in this country in proportion as public opinion has been more and more directed to colonial questions; and of late years greater attention has been paid to those questions for various reasons. First, because, within the last quarter of a century, Great Britain has begun again to colonise, and on a much greater scale than ever before. For, during that period, at least 2,000,000 of persons have migrated from this country; half of them have gone directly to our independent colonies of the United States; the other half to our dependent colonies, whence a large portion of them have re-emigrated to the United States. This great emigration, though chiefly directed to our independent colonies, has made the subjects of colonisation and colonial government matters of deep and increasing interest to a large portion of the community, especially to the humbler and middling classes: for there is scarcely one amongst them who has not some acquaintance, friend, or relation in one of the colonies, or about to emigrate; and also many of the aristocracy and gentry have friends or kinsmen residing in the colonies as governors, or in other situations of trust and profit. In consequence of this great emigration, the relations between Great Britain and her dependencies have been profoundly changed; and there ought to have been a corresponding change in her colonial polity, which

was framed without reference to any emigration except that of convicts.

Secondly, public attention has been very much directed of late years to colonial questions by the writings of distinguished men, who have carefully investigated the economy of new societies, examined into the principles of colonial government, and attentively studied the subjects of colonisation and emigration, with the view of relieving the economical difficulties of the United Kingdom, and of planting the uninhabited portions of the globe with communities worthy of the English name. . . .

Thirdly, public attention has been much directed of late years to colonial questions, in consequence of the discussions which have taken place with regard to free trade and the navigation laws, and which have led to a great change in our commercial policy. For most of the statesmen of this country have maintained that there is an intimate connection between the colonial and commercial polities of Great Britain. They have generally defended the acquisition of new colonies, on the plea, that such foreign possessions afforded markets for the exclusive benefit of our manufacturers, and produced a trade for the exclusive profit of our merchants and ship-owners; and they persuaded the nation that, in return for these privileges, it was worth our while to pay vast sums of money for protecting and governing the colonies. These privileges being abolished, the question seems very naturally to arise, why are we to continue to pay for them? The colonies are free to trade with whom they will, and in what manner they will. Therefore, they will only trade with us and employ our shipping, when it is most profitable to them to do so. Therefore, as far as trade is concerned, they are become virtually independent States. And this revolution in our commercial polity has directed public attention to the question, whether there ought not to be a corresponding change in our colonial polity.

Fourthly, the attention of Parliament and of the country has of late years been constantly occupied with

colonial questions, in consequence of a series of remarkable events in the colonies, which have annually occasioned heavy demands to be made on the public purse. . . .

I will now state what, in my opinion, should be the chief subjects of inquiry. They may be arranged under three heads of Colonial Government, Colonial Expenditure, and Emigration or Colonisation.

First: An inquiry should be made into our system of colonial government, with the view of removing the main causes of colonial complaint. Now, the one great cause of colonial complaint is irresponsible government from a distance. The faults inherent in our government of the colonies have been forcibly described in words which I will read to the House, and to which I am sure hon. Gentlemen will listen with attention, in memory of a late distinguished Member of this House. That system

‘has all the faults of an essentially arbitrary government, in the hands of persons who have little personal interest in the welfare of those over whom they rule; who reside at a distance from them; who never have ocular experience of their condition; who are obliged to trust to second-hand and one-sided information; and who are exposed to the operation of all those sinister influences which prevail wherever publicity and freedom are not established.’

The power of these persons

‘is exercised in the faulty manner in which arbitrary, secret, and irresponsible power must be exercised over distant communities. It is exercised with great ignorance of the real condition and feelings of the people subjected to it; it is exercised with that presumption, and, at the same time, in the spirit of mere routine, which are the inherent vices of bureaucratic rule; it is exercised in a mischievous subordination to intrigues and cliques at home, and intrigues and cliques in the colonies. And its results are, a system of constant procrastination and vacillation, which occasions heartbreaking injustice to the individuals, and continual disorder in the communities subjected to it. These are the results of the present system of colonial government, and must be the results of every system which subjects the internal affairs of a people to the will of a distant authority not responsible to anybody.’

These were the words of my late friend Mr. Charles Buller. . . .

Under the existing colonial system, in most of our colonies (I may, indeed, say in all of them with the exception of Canada) representative institutions are rather shams than realities, for they seldom lead to the legitimate consequences of representative government, namely, responsible government according to the will of the majority of the representatives of the people. In almost all the representative colonies the Colonial Office generally attempts to carry on the government by means of a minority of the representative assembly, with the assistance of a legislative assembly composed of the nominees of the Colonial Office. The consequence is, a perpetual struggle between the majority of the representative assembly and the party of the Colonial Office—a struggle carried on with an intensity of party hatred and rancour happily unknown to us: each party rejects or disallows the measures of the other party; thus legislation stands still, and enmity increases; after a time the supplies are stopped, and a deadlock ensues; then the Imperial Parliament is called on to take the part of the Colonial Office, and a constitution is sometimes suspended; next, to preserve order or to put down rebellion, the military force is augmented; and, finally, a demand is made upon the purses of the British people, who have invariably to pay the piper at every colonial brawl. Within the last fifteen years events of this kind have taken place in most of our largest colonies; for instance, in both the Canadas, in Nova Scotia, Jamaica and British Guiana; and they seem likely to be repeated in Jamaica and British Guiana. Thus, both in the colonies which have representative assemblies, and in those which have them not, the one great cause of complaint is irresponsible government from a distance; that is, government by rulers who are necessarily ignorant of the state of their subjects; who, sometimes with the very best intention, propose and insist upon the very worst measures. It would be very easy to take colony after colony, and show in each a

series of lamentable blunders which have been committed by the Colonial Office. For instance, how the war of races was stimulated in Canada; how the ruin of the planters was made inevitable in the West Indies—how a valuable portion of our fellow subjects in South Africa were driven into the desert and became rebels—how the immorality of Van Diemen's Land was fearfully augmented—how the colonisation of New Zealand was spoilt—all through the ignorance, negligence, and vacillation of the Colonial Office. . . .

The second head of inquiry which I propose for the commission is colonial expenditure. I have calculated that, on the average of the last fifteen years, the direct cost of the colonies to Great Britain, under the four heads of civil, naval, military, and extraordinary expenditure, has amounted to at least £4,000,000 a year, exclusive of the sums paid for emancipating our slaves. The civil expenditure has been between £200,000 and £300,000 a year; the naval expenditure, I believe, I have underestimated at £1,000,000 a year. . . . I believe that, with a reform of our colonial system, and with a searching inquiry into the cost of our colonies, a large reduction could be made in colonial expenditure, especially in military expenditure. . . .

Lastly, I propose that, if a commission be appointed, it should inquire into the subject of emigration and colonisation. It would be easy to show that the colonial policy of this country has not directly tended to encourage any emigration except that of convicts, and that by encouraging convict emigration, it has indirectly tended to discourage the best kinds of emigration; for no good and respectable man, especially if he be the father of a family, or intend to be one, would ever think of going to a convict colony, unless he be in complete ignorance of the moral consequences of convict colonisation. Therefore, it is of the utmost importance to the colonies that the question should be settled, whether convict emigration is or is not to continue to be a portion of the colonial polity of the British Empire.

COLONIAL POLICY

*SIR WILLIAM MOLESWORTH**House of Commons, 8 February 1850*(108 *Parl. Deb.*, 3 s., 567 ff.)

[THIS was the most constructive contribution to a debate on Colonial policy.]

Sir, the noble Lord at the head of the Government [Lord John Russell] commenced his speech by explaining the principles on which our colonial Empire was founded. He then stated facts bearing upon the population and commerce of that Empire, and from thence inferred that it would not be to the advantage but to the detriment of the kingdom, were our colonial possessions to be abandoned. In most of the observations of the noble Lord with respect to these points, I entirely agree. The noble Lord then proceeded to explain the future colonial policy of the Government; but I must say that in some respects the explanation was one which I did not distinctly understand. The noble Lord spoke of granting constitutions to the colonies; and he referred to certain old colonial charters giving power to the colonies, in whose favour they were granted, to frame their own constitutions. If the noble Lord intends to adhere to the principles of the old charters, he will find me a warm adherent. Next the noble Lord proceeded to censure an association of gentlemen which had been formed for the purpose of obtaining a reform in colonial government. Now, as I am a member of that association, I will state what were the reasons which caused its formation. Its members organised it because they entirely agreed with the noble Lord, that we ought to maintain our colonial Empire—because they knew that discontent prevailed extensively throughout our colonies—because they had no hopes of reform from the Colonial Office—and because they believed that

a train of errors and blunders, similar to that which lost us the United States, was now endangering the colonial possessions which remained to us—and because they had little faith in the Colonial Office as regards its promises to give free institutions to the colonies. The inhabitants of Australia complain that, every year since the present Government came into office, they have been promised free institutions, and every year those promises have been systematically violated. . . .

Naturally enough this repeated promise-breaking has produced the greatest discontent; and, under the influence of angry feelings, the colonists attribute the worst motives to the authors of their disappointment. They blame the people, the Parliament, and the statesmen of Great Britain. They say that the people and Parliament care nothing and know nothing about the colonies, but abandon them entirely to the Colonial Office. They accuse the statesmen of Great Britain, especially those connected with the Colonial Office, of being in their hearts unwilling to deprive themselves of power and patronage by bestowing free institutions on the colonies. Thus many of the colonists, unfortunately believing their rulers to be selfish and faithless, have begun to despair, and in despair to ask one another how they can redress their own grievances. And in reply some of them answer, that it was by rebellion that Canada obtained responsible government, that it is by threats and menaces that the men of the Cape are successfully striving to save their colony from convict pollution; and they ask one another whether Anglo-Australians are less energetic than the *habitants* of Canada, or less bold than the boors of the Cape. That such language is used, and that such sentiments are entertained but too generally throughout some of the most important of our colonial possessions, no one acquainted with those colonies can deny, or fail to lament, if, like myself, he be anxious for the preservation of the colonial Empire of Great Britain.

Though all the colonies unanimously cry out against the noble Earl, yet, I maintain that it is not the individual,

but the system, which is the real cause of the existing discontent—that as long as that system is unreformed, it matters not who may be the Secretary of State for the Colonies, discontent will prevail throughout the colonies—every year increasing in intensity, menacing the stability of our colonial Empire, and threatening its forcible tearing asunder, to be accompanied perhaps by hateful civil wars, with vast expenditure and much misery both to this country and to the colonies. To avert this impending danger, Parliament must hasten to make a complete and thorough reform of our system of colonial government. There is no time to be lost. There has been too much delay already. The question is, to what extent the policy propounded by the noble Lord will effect a reform in our colonial system.

Now, in the observations I am about to address to the House, I shall confine myself to the colonies, properly so called. I mean those colonies in which the European race may be expected to increase and multiply. In those colonies there are three chief causes of discontent: first, some of the colonies complain of the want of free institutions, or the want of the power to alter and amend existing ones; secondly, all the colonies complain of the appointments made by the Colonial Office; and thirdly, every colony complains of the arbitrary interference of the Colonial Office in its internal affairs.

The noble Lord contends that it is the duty of those who blame the existing system, and who wish to retain our colonial Empire, to point out the line of policy which they think should be adopted. Now, I shall attempt to meet the challenge thrown out by the noble Lord, not by expressing in abstract terms my opinions with respect to colonial policy generally, but by considering some of the measures which he proposes.

In the government of a colony there appear to me to be two distinct questions to be considered: first, the form of government or constitution of a colony; and, secondly, the powers to be delegated to the colonial authorities. With respect to the form of government, I could not

distinctly gather from the noble Lord what form he intends for the Cape of Good Hope. With respect to the Australian colonies, the noble Lord has said that the present Bill is a reproduction of the Bill of last year; but the noble Lord rather surprised me when he called it a copy of the British Constitution. The noble Lord intends, it appears, to give to all the Australian colonies the present Constitution of New South Wales. Now let me just describe to the Committee what is the present Constitution of that colony. Suppose that 110 members of this House had seats in virtue of holding office under the Crown, and for as long as they held office; and that in addition to the 110 official members, there were 110 other members who were appointed members by the Government at the commencement of every Parliament, making in all 220 votes at the disposal of Government. Suppose, likewise, that the House of Lords were abolished, and that, instead of Her Gracious Majesty, Queen Victoria, we had a governor of the ordinary description; then we should enjoy the benefits of the British Constitution after the fashion of New South Wales. How would such a Constitution work with us? We should be divided into two permanent factions, actuated by the fiercest hatred of each other. One party would pride itself upon being the representative of the people, and would look with scorn and contempt upon the other party as the base and subservient tools of the Government. No question would be considered to be settled which was decided against the wishes of the elective members; and the official and nominated members would be held up to public odium and hatred if they ever presumed to defeat the wishes of the elective members.

It is evident that in theory such a Constitution is absurd, and that in practice it must be a very bad one. But the noble Lord said that the Australian colonies are to have power to alter or amend their Constitutions to the extent of forming a second chamber. Now, I acknowledge that, if this power be fully conceded to them, my objections to this portion of the Bill of the noble Lord will be con-

siderably diminished. But I must say that, in my opinion, sufficient power to amend their Constitution would not have been given to the colonies by the Bill of last year; and I presume, from the statement of the noble Lord, that he does not propose in the Bill of this year to give these colonies a greater amount of power.

It appears to me that neither Parliament nor the Colonial Office has been very successful in devising Constitutions for the colonies. In fact, all the attempts of late years at Constitution-making have failed. The model Constitution of the noble Lord at the head of the Colonial Department was suspended the year after it was enacted. . . . Then, with respect to the Cape of Good Hope, it is said that the Government requested Sir Harry Smith to send home the form of a Constitution for that colony. Now, no one has a higher respect for Sir Harry Smith than I have. He is an admirable officer, and is well qualified to defeat Caffres; but I do not think that his despatches have proved him to be a Solon.

With respect to the Australian colonies, I will merely say that, if the noble Lord at the head of the Government adopts the principle laid down in the charter of Lord Carlisle, and desires to frame Constitutions which shall give satisfaction in the colonies, the opinions of the colonists ought to be distinctly taken on the subject. It is not sufficient to ascertain the opinions of the Governor, or to refer to the sentiments of one or two newspapers, or the expressions of one or two public meetings. A constituent assembly, composed of the representatives of the people, should be summoned, and to them should be delegated the power of determining the form of their Constitution.

Next, I ask, what are the powers which ought to be delegated to the colonial authorities? That appears to me to be a far more important question than the mere question of a colonial Constitution. I am sorry to find, from the statement of the noble Lord, that he intends to retain to the Colonial Office its present arbitrary power of disallowing all acts of the colonial Legislatures, and thus

of interfering in the internal affairs of the colonies. Now, this arbitrary power has been, and as long as it exists will continue to be, a perpetual cause of colonial discontent and of never-ending discord between the colonies and the Imperial Government. All the colonies complain of the arbitrary power of the Colonial Office. Those complaints are frequently but too well founded. How is it possible they can be otherwise than well founded? Consider who are the persons who are entrusted with this arbitrary power. The heads of the Colonial Office change with every change of Government. They are absentee rulers, living at a distance of many thousands of miles from their subjects. They never have ocular experience of the condition of the colonies. They have no personal interest in the well-being of the colonists. They are always obliged to trust to second-hand and partial information with regard to the colonies. They are, therefore, generally ignorant, and, worse than ignorant—they are generally misinformed about colonial questions. They are said to be responsible to Parliament: that responsibility is a farce; for we cannot spare time to attend to colonial affairs; we cannot obtain accurate and impartial information about the colonies; we are necessarily ignorant; and our system of colonial government may, with accuracy, be described as government by the misinformed, with responsibility to the ignorant. This kind of government is most bitterly distasteful to men of our race and habits. How should we feel, if we were colonists distant a myriad of miles from our mother country, and were liable to have our Acts of Parliament disallowed at the whim and caprice of some noble Lord at the antipodes, responsible to a Parliament sitting at Sydney, and knowing nothing about us? How should we like to have to wait three years before we could be certain that our Acts of Parliament are laws? Why does the noble Lord retain this arbitrary power to the Colonial Office? I presume because the noble Lord will say the Colonial Office is the guardian of Imperial interests and ought, therefore, to retain a power of disallowing Acts of the colonial Legislatures, lest those

Legislatures should make laws injurious to Imperial interests.

Now, I acknowledge at once that means must be taken to prevent the colonial Legislatures from making laws injurious to Imperial interests. But I deny that it is necessary for that purpose to retain to the Colonial Office its present arbitrary power of disallowing all acts of the colonial Legislatures. We may take care of Imperial interests in a much better manner, as I will explain in a few words. To do so, I must observe that all executive and legislative powers, with reference to a colony, may be divided into two classes. One class I call Imperial powers, because they ought to be strictly reserved to the Imperial Government; and they ought to be so reserved, because they are indispensable for the maintenance of the unity of the Empire, and for the management of the common concerns of the whole Empire. Therefore, they ought on no account to be delegated to the colonies, and the colonial Legislatures ought not to be entitled to make any laws affecting or derogating from Imperial powers; for, if they were entitled to do so, the unity of the Empire would be destroyed. Now, all other executive and legislative powers with reference to a colony, except the Imperial ones, I call local powers, because they have reference to the management of local concerns of a colony, as distinguished from the common concerns of the whole Empire. Now, it is evidently of great and primary importance to this country, and to the Empire as a whole, in what manner Imperial powers are exercised; therefore, Imperial powers ought to be strictly reserved to the Imperial Government, and no colonial Legislature should be entitled to make any law affecting or derogating from Imperial powers. On the other hand, it is evidently a matter of little or secondary importance to this country, and to the Empire as a whole, in what manner local powers are exercised, provided only that the colonists are not dissatisfied with the Imperial Government on account of the manner in which the local powers are exercised. . . . Therefore, I infer that we ought

to delegate to the colonies all local powers, and entitle them to pass any law affecting their local concerns. Consequently, I infer that we ought to deprive the Colonial Office of its present arbitrary power to disallow all acts of the colonial Legislatures, and to limit the power of the Colonial Office to questions affecting Imperial powers.

For this purpose it would be necessary carefully to enumerate and to accurately define the powers which ought to be held to be Imperial powers. Now, the noble Lord says that it would be impossible to draw the line of distinction. He began his speech by saying that he could not spare time to attend very carefully to those subjects. But I am sure the noble Lord, if he applied all his energies to the question, could draw the line of distinction. Such a definition of Imperial powers has not only been attempted, but made, by those Anglo-Saxon statesmen who formed the Constitution of America; and glad should I be if the colonies were as much attached to the mother country as the States are to the American Union.

I proposed last session that a Royal Commission should be appointed for the purpose of defining Imperial powers, and to prepare a measure of colonial reform. I regret much that the House did not assent to that proposal, for by this time the House would have possessed a more accurate enumeration of Imperial powers than that which it can expect from me; but I am prepared, at this moment, if the Committee will bear with me for a few minutes, to enumerate the powers which in my opinion should be reserved as Imperial ones.

First, I would enact that there should be strictly reserved to Her Majesty all the following powers and prerogatives; namely, to send or receive ambassadors, to enter into any treaty, alliance, or confederation with any prince, State, or Power; to grant letters of marque and reprisal during peace or war, and to grant safe conducts during war; to declare or make war—conceding to the colony when actually invaded, or in such imminent danger as not to admit of delay, the power to engage in

war; to confiscate the property of alien enemies in time of war; to establish prize courts; to command the militia in time of war, and at all times to command all regular naval and military forces employed in and about the said colony; to coin money or regulate its value, or that of foreign coin; to grant titles of nobility; to regulate the transmission of letters by sea to or from a colony and any other place; to keep any land or naval forces in or about a colony, or the coast thereof; to erect forts, magazines, arsenals, dockyards, and other needful buildings for military purposes; to place garrisons therein, and to exercise exclusive jurisdiction within the precincts thereof; to take possession of any waste land situate within the said colony, and of any other land therein, upon making due compensation to the owners and occupiers thereof, for the purpose of erecting such forts, magazines, arsenals, dockyards, and other needful buildings, and for any other military purpose.

Secondly, I would enact that the Colonial Legislature shall not have power to make any law to affect or derogate from the aforesaid powers and prerogatives of the Crown; to establish slavery; to alter the succession of the Crown, or pass any act affecting the style and dignity of the Crown, or relating to the appointment of a regent; to absolve any person from his allegiance; to deprive any person of the right to appeal to Her Majesty in Council, in any case in which such appeal now subsists; to make any law containing any matter or thing contrary to the law of nations, as received and administered in the Courts of Great Britain; to make any law respecting captures by land or water, or to define piracies and felonies committed on the high seas; to make any law affecting the command, regulations, or discipline of Her Majesty's military and naval forces; to make anything but gold and silver coin a legal tender; to define treason, or alter the law relating thereto; to lay any duty on supplies to Her Majesty's military and naval forces; to bring in any Bill of attainder; to impose any differential duty on imports to, or exports from, any part of Her Majesty's dominions, or any duty

inconsistent with any treaty that already has been or may hereafter be entered into between Her Majesty, her heirs, and successors, and any foreign country; to confer any privilege or immunity on the inhabitants of New South Wales that shall not equally be conferred on the other subjects of Her Majesty, and every law or provision in a law in contravention of this clause shall be void.

Now, in consequence of these reservations, various legal questions would arise, which I would propose to refer to the decision of the Judicial Committee of the Privy Council. Thus I would substitute for the present arbitrary power of the Colonial Office a legally-defined power. Now, there is nothing which men of our race hate more than arbitrary power—nothing which they respect more than a legally-defined power. At present the colonial legislatures do not know what laws they may, and what laws they may not, make. In fact, they may at present make any laws whatever, affecting Imperial interests in any manner whatever, provided the Colonial Office does not disallow them within a certain period of time. On the other hand, the Colonial Legislatures cannot make any law which the Colonial Office may not disallow. I propose, therefore, in the manner which I have explained, to enable the Colonial Legislatures to know precisely what laws they may make, and what laws they must abstain from making; and I propose to settle all disputes which might arise by means of the decisions of one of the highest and most esteemed judicial tribunals in this country. . . .

In conclusion I would say that our true colonial policy is to have faith in our colonists—to believe that they are as rational men as we are, and understand their local concerns better than we can; consequently we ought to give them the uncontrolled management of their local, as contradistinguished from imperial, concerns. Then the colonists, relieved from the hated tyranny of the Colonial Office; enjoying all the rights and privileges of British citizens; bearing true allegiance to the Monarch of these realms; willingly obeying the laws made by the

Imperial Parliament, or by the constituted authorities to whom Parliament shall have delegated legislative power; having, therefore, no reason, real or imaginary, to find fault with the Imperial Government—would be bound to the Empire by the strong ties of race, language, and self-interest.

COLONIAL POLICY

*WILLIAM EWART GLADSTONE**House of Commons, 21 May 1852**(121 Parl. Deb., 3 s., 952 ff.)*

[GLADSTONE took the opportunity, in a debate on the Second Reading of the New Zealand Government Bill, to express his views on the mistaken courses that had hitherto been taken in regard to Colonial policy generally. He displayed great sympathy for Imperial ideals. Cf. No. 103.]

The idea which we entertain of a colony at the present moment, as it appears to me, is this—we think of it as something which has its centre of life in an executive Government—we think of the establishment of a colony as something which is to take effect by legislative enactments, or by the executive power of the Crown, and by the funds of the people of England. This administrative establishment, according to our present Colonial system, is the root and trunk around which by degrees a population is to grow, under which by degrees that population is, according to our modern, and in this case most unhappy phrase, to be trained for freedom, and to which in course of time some modicum of free institutions is to be granted. That I think is a true description of the manner in which, and of the idea under which, the foundation of our modern colonies has been ordinarily conducted.

Now, Sir, I conceive that this fundamental difference prevails between the Colonial policy pursued in this country of late years, and the policy pursued in other great departments of the State. If we look at the policy which prevails in the Home Department, if we take the financial policy of the Government, or if we take the

foreign policy of the country, as was well stated by my noble Friend near me [Lord Palmerston] upon another question in the earlier part of the evening, we find upon the whole, that with various differences with respect to matters of fact and to details, certain leading principles are continuously followed out, and that upon these leading principles there is a general concurrence of opinion; so that no person ever proposes seriously to alter the fundamental principles upon which the foreign policy of the country has been conducted under a long succession of Ministers. But that which I think requires still more and more to be presented to the mind of this House and of the people of England, until it become with them a living and practical conviction, is this proposition, that in the policy we have pursued in the foundation of colonies—I speak now of our free and planted colonies, not of military posts termed colonies, nor of colonies whose social relations are disturbed by questions of race—we have proceeded on principles fundamentally wrong; and that the Acts introduced and passed by Parliament for the purpose of raising, by slow and reluctant degrees, the structure of freedom in those colonies, have not been so much recognitions of a right principle, as modifications, qualifications, and restraints imposed upon a wrong principle.

Now what is this right principle of colonisation to which I refer? It may be enunciated in my view by one word, or at least one phrase, to which I will presently come. Your ancestors, two hundred years ago, when they proceeded to found colonies, did not do it by coming down to this House with an estimate prepared, and asking so many thousands a year for a governor, a judge, an assistant judge, a colonial secretary, and a large apparatus of minor officers. What they did was this. They collected together a body of free men, destined to found a free State in another hemisphere, upon principles of freedom analogous to our own, which should grow up by a principle of increase intrinsic to itself, and, enjoying that freedom under the shelter against foreign aggression

from civilised Powers which your Imperial power was to afford them, should in process of time propagate your language, manners, institutions, and religion in distant quarters of the globe. But it was not on artificial support from home that these institutions leaned; and the consequence was that they advanced with a rapidity which, considering the undeveloped state of communications and of commerce at that time, was little less than miraculous. That was the consequence to them; and the consequence to you was this, that you never heard of pecuniary charges brought against this country for their maintenance; that, on the contrary, you found them ready to assist you in foreign wars, and that instead of being called on to send regiments, service companies, and I know not what besides, to maintain the domestic police of those colonies, and keep the peace for them against unruly members of their own communities, or against savage tribes upon their borders, such was their admiration of freedom, and such their profitable use of it, that not only did they not ask you for your regiments and service companies, or petition you for means to keep the peace, but they held it as a grievance if you attempted to impose on them your little standing armies, and they considered that, having been educated in English habits and ideas, they were perfectly competent to follow out the paths in which those habits and ideas conducted them for themselves.

Such was the then state of things. Departing from that scheme of policy in later days, you have implanted a principle, if not of absolute, yet of comparative feebleness in your distant settlements. You have brought upon yourselves enormous expense; and, by depriving them of the fulness of political freedom, you have deprived them of the greatest attraction which they could possibly hold out to the best part of your population to emigrate; because Englishmen do not love to emigrate to countries where they cannot enjoy the political franchises which they enjoy at home, and where the regulation of their interests will be committed to the hands of a Government

which, however mild and equitable, must still be called in principle despotic. Whatever we may say as to despotism—and I am not given to take an over-severe view of despotism, where it is adapted to the habits of a country and its social state—yet as regards freeborn Englishmen, such a system is most monstrous and irrational; and the consequence has been that there is a subject of complaint, present and familiar to us all, namely, this, that you have been unable to get the superior classes of the community to emigrate; for the high-minded, well-educated men, who would have been themselves the centres of a valuable social influence, have been reluctant to leave the shores of England, because they were unwilling to forfeit the advantages of a state of high civilisation, and to incur a certain deprivation of the great bulk of their political liberties. And thus our modern colonists, instead of remaining, as formerly in continuous and hereditary possession of their liberties, after quitting the mother country, instead of keeping them, and handing them on as the regular and unquestioned heritage of their children in another hemisphere, go out to Australia or New Zealand to be deprived of these liberties, and then perhaps, after fifteen, or twenty, or thirty years' waiting, or yet more, to have a portion given back to them with great and magnificent language about the liberality of Parliament in conceding free institutions; while during the whole of that interval they are condemned to bear the whole of the miserable jargon which has grown into use about training them for free institutions, and fitting them for the privileges thus conferred; whereas, in point of fact, so far from thus training and fitting them, every year and every month during which they are kept out of the possession and familiar use of such institutions, and retained under the administration of a despotic Government, renders them less fit for free institutions, and the consequence is that the introduction of them at length is attended with great embarrassments; liberty comes to them as a novelty; its working is something strange and unknown, attended with hazard, uncertainty, and excite-

ment; and thus you have inconvenient or disastrous consequences brought upon you by your own fault, which you might have avoided if you had only followed that which in this case no one need be ashamed of holding up to commendation as the wisdom of your ancestors—if you had only walked in the path they struck out for your guidance. Let the people you send out to colonise a distant land take root unmolested in their new ground as the seed of a future community, as the natural and living centre around which population is to grow; and instead of training them for free institutions, rely upon it that the best training they can have is the training they have already received before they left your shores, and while they are still British citizens; let them carry their freedom with them, even as they carry their agricultural implements, or anything else necessary to establish them in their new abodes; so let them hold it for themselves, and so let them transmit it to their children; this is the true secret of subduing the difficulties of colonisation.

I said that in propagating these opinions I did not rest upon the speculations of philosophers and economists—I rest upon the facts of history. The system which I recommend, which I am certainly convinced will gain ground from year to year in the feelings and convictions of this country, is the very same system in the main with that on which the whole of the great and wonderful operation in colonising North America was conducted—the system which Mr. Burke studied, examined, and comprehended from top to bottom, and which he described in his great speech on American taxation, when he warned Parliament against the erroneous and destructive consequences of attempting to establish administrative power over their distant dependencies, or to extract from them some miserable and contemptible pecuniary benefit, instead of seeing that the great interest and purpose of England in colonising was the multiplication of her race; that her policy was to trust to the multiplication of her race for the propagation of her institutions; and that whatever course of legislation tended most to the

rapid expansion of population and power, in her colonies, necessarily tended most to enhance the reflected benefits that she was to derive from their foundation. That sound Colonial policy reached its climax in what I may call Tory times, although they were times immediately preceding the invention of our now familiar political designations. In 1662 the Charter of Rhode Island was granted. It is the most remarkable for its enlarged and liberal spirit of all the early charters; yet in its general character it is akin to the rest of the charters, under which the infant settlements of New England throve and prospered. At this day it is considered a monstrous idea that colonies should have free local jurisdiction for local purposes. It is not considered safe to allow colonies to pass at their own discretion a law relating to the making of a road, the deepening of a harbour, or any local purpose; so that an act of this kind after passing a Colonial Legislature, nay, even after receiving the Governor's assent, is not secure from reversal, but is still, as it were, held in a state of suspended existence for two years and upwards. It is remitted to England, considered in England, and again sent to the colonies; and thus, until the news is received there its fate remains uncertain: in point of fact, a period of nearly three years may elapse in our distant colonies between their final decision on local questions—the only criterion of fitness in this case which is worth a moment's attention—and their final knowledge whether their decision is to take effect. That is the state in which they are placed, and the way in which their affairs are managed. I should like to know what our feelings, temper, and humour would be if this was the mode of dealing with laws passed by us on subjects which we understand—say, for instance, an Act for the construction of a Great Western railroad, or other similar purpose—if such an Act, passed on our own knowledge of the circumstances and exigencies of the case, were to be transmitted to another quarter of the world, and there kept by somebody in an office for two years, while some person or persons unknown were deliberating upon its fate. That, however, Sir, is the system

under which, in this age of freedom and enlightenment, we are content that our colonies should subsist.

But the old idea of a colony may be represented, as I have already said, by a single phrase—it was, in fact the idea of a municipal corporation. Now, it will be useful to consider the sense attached to that phrase. In the departure from it we find a key to the alteration of our Colonial policy from the old model. We do not now treat our municipalities with the same system of misplaced absolutism as we apply to our colonies; we place them under the restraint of the general laws of the land, but for purposes properly local we give them absolute freedom. The by-laws of Liverpool or Manchester—places counting their population by hundreds on hundreds of thousands—are not sent to the Secretary for the Home Department to be kept for two years, that he may consider whether they are to be carried into effect or not, but they go into operation at once. Shall I ask this House to consider, or would it be possible for us by any strain of imagination to realise to ourselves, what our condition would be if it were not so? Such a system would seem to us fitter for Turkey than England. The system of those times was well considered, and was founded on the dictates of political justice. The colonies were subjected, on one hand, to the general restraints of the law of England; and again, according to the language of their charters, they were to have their laws, as near as might be, agreeable to the laws of England; whilst in other respects they were, for all practical purposes, absolutely and entirely free; and I must say, further, the degenerate and degrading ideas we now have of retaining the substance of colonial patronage partly, and still more the name, in this country, for the supposed benefit of Ministers or influence of the Crown, were totally foreign to the notion of your ancestors six generations ago. These colonies, on the general basis of municipal corporations, were the possession of their own soil; they were for all purposes of police, except that of conflict with civilised Powers, the defenders of their own frontiers; they were

the bearers of their own charges; they were the electors of their own officers; and they were the makers of their own laws. Now you have reversed, within the last seventy years, every one of those salutary principles. Your policy has been this: you have retained at home the management of, and property in, colonial lands. You have magnificent sums figuring in your estimates for the ordinary expenses of their governments, instead of allowing them to bear their own expenses. Instead of suffering them to judge what are the measures best adapted to secure their peaceful relations with the aboriginal tribes, and endeavouring to secure their good conduct—instead of telling them that they must not look for help from you unless they maintain the principles of justice, you tell them, ‘You must not meddle with the relations between yourselves and the natives; that is a matter for Parliament;’ a Minister sitting in Downing-street must determine how the local relations between the inhabitants of a colony and the aboriginal tribes are to be settled, in every point down to the minutest detail. Nay, even their strictly internal police your soldiery is often called upon to maintain. Then, again, the idea of their electing their own officers is, of course, revolutionary in the extreme—if not invading the Royal supremacy, it is something almost as bad, dismembering the Empire: and as to making their own laws upon their local affairs without interference or control from us, that is really an innovation so opposed to all ideas of imperial policy, that I think my hon. Friend the member for Southwark [Sir William Molesworth] has been the first man in the House bold enough to propose it. Thus, in fact, the principles on which our Colonial administration was once conducted have been precisely reversed. Our colonies have come to be looked upon as being, not municipalities endowed with external freedom, but petty States. If you had only kept to the fundamental idea of your forefathers, that these were municipal bodies founded within the shadow and cincture of your Imperial powers—that it was your business to impose on them such positive restraints as you thought necessary, and

having done so, to leave them free in everything else—all those principles, instead of being reversed, would have survived in full vigour—you would have saved millions, I was going to say countless millions, to your exchequer; but you would have done something far more important by planting societies more worthy by far of the source from which they sprang; for no man can read the history of the great American revolution, without seeing that 100 years ago your colonies such as they then were, with the institutions they then possessed, and the political relations in which they then stood to the mother country, bred and reared men of mental stature and power such as far surpassed anything that colonial life is now commonly considered to be capable of producing.

I will proceed to recite in a few words, the main provisions of the Charter of Rhode Island—which is on the whole, the best and most perfect exhibition of your ancient maxims of government applied to the American Settlements. Its Constitution consisted of three orders—a governor, a body of assistants, and a body of freemen. The freemen, as it was anticipated in this charter that they would become numerous, were to meet by representation; and thus in these elected freemen, with the distinct order of assistants, a principle was laid down, the principle of a double chamber for legislation, which had stood the storm of the American revolution, and the strain of all subsequent political vicissitudes; and which at present subsists with undiminished vigour, in every single State, I believe, of the American Union. But further, Sir, while the first Governor was named in the Charter, and was to hold his office for a year, his successors were to be appointed by the free voice of the colonists; and, doubtless, to many who hear me it will appear astonishing that that power should have been conceded in 1662, when not merely the warmth, but the fever, of Royalism was at its height in this country. They were not only to elect their own Government, but to make their own laws, subject to no other restraint in the world, except that, as far as circumstances would permit, they should be not contrarious

but agreeable to the laws of England. They were to appoint their own officers and judges; they were to constitute their own courts of justice; they were to arm, embody, and march their own force of self-defence, and appoint its commanders; they were to be the possessors of their own soil; and lastly, they were to be the bearers of their own charges. It might be asked what security was taken for their good behaviour to others. The security taken, whether perfect or not, was certainly as perfect as any more recent policy has furnished; it was provided that, in case of their offending any Prince or Power in alliance with the Crown of England, they should either be bound to make restitution to the satisfaction of the Crown, or else (says the Charter) they shall be 'put out of our allegiance and protection.' Now, Sir, two centuries have passed, and have produced many changes in the character of mankind, and I will not say that in all points, which may now be in debate, that Rhode Island Charter ought to be implicitly and blindly imitated; but this I will say, that when we look at the Constitutions we have given of late years to our colonies, the Acts we have passed, the difficulties we have had with them, the millions we have paid for the suppression of insurrections, and for the maintenance of wars with savages, the worrying processes to which colonists have been subjected, the complaints on all sides of the deteriorated tone of society in many of these dependencies, the reluctance once universal, and still somewhat prevalent of educated and superior men to cast their lot and make their home there—when we notice all this, and when we see that 200 years ago a system conceived in another spirit was carried out by our forefathers, we surely cannot draw the comparison, I should rather say the contrast, without a blush upon our faces.

THE PROSPECT OF IMPERIAL DISINTEGRATION

WILLIAM EWART GLADSTONE

*House of Commons, 26 April 1870**(200 Parl. Deb., 3 s., 1900 ff.)*

[THIS speech was made in a debate on a motion by Robert Torrens (afterwards Sir Robert Torrens) for the appointment of a Select Committee on Colonial Policy. There was at the time a general uneasiness in regard to the supposed intention of the Government to abandon the Colonies. Gladstone developed an interesting view of the possibility of secessions; and his remarks on this occasion may be compared with those in No. 102. He cannot, it seems, be charged with inconsistency on this subject.]

The hon. Gentleman who seconded the motion [Mr. Eastwick] stated, in distinct terms, that a new policy had been propounded and acted upon by the present Government. He said that there have been three periods in the history of the connection of the colonies with this country, and that we are now entering on a fourth. The third of these periods was, if I understood the hon. Gentleman aright, the period of responsible government, and the concession to the colonies of the management of their own affairs, and that we have now passed from that into a fourth period, in which separation is openly avowed as the rule of policy for this country. But the hon. Gentleman hardly made the slightest attempt to prove that proposition—he had nothing to adduce except the speech of Mr. Huntingdon, whose words, he said, were enough to show that a policy of that kind has been adopted by the present Government of this country. The present Government, however, do not claim the credit of adopting or introducing any new policy. There is no question of any new policy at all; but there is a question of the successive development and application of admitted

principles to one colony after another, according as circumstances allow and invite their application. That is the simple explanation of the whole matter.

When you are involved in a bad system, you cannot pass to a better without feeling some inconvenience in the transition. If you look back to the history of the colonial connection between European Powers and trans-Atlantic possessions you find that it is the nature of those possessions to grow, and so to grow as to alter essentially, in obedience to laws stronger than the will of man, the conditions of their relations to the countries with which they were originally connected, until they arrive at that stage of their progress in which separation from the mother country inevitably takes place. It is impossible, however, to look back with satisfaction to the mode in which that separation has occurred. In every instance it has been brought about by war and bloodshed, involving an inheritance of pain, hatred, and shame; whereas in reason there ought to be nothing to preclude the hope, when the growth of a colonial possession is such as to make separation from the mother country a natural and beneficial result, that that separation, so far from being effected by violence and bloodshed, might be in the result of a peaceable and friendly transaction. Surely it is a great object to place, if possible, our colonial policy on such a footing, not for the purpose of bringing about a separation, but of providing a guarantee that, if separation should occur, it should be in a friendly way. That is the sense, the principle, and the secret of our policy with regard to colonial reform.

But it is not an easy matter to escape from the false position in which we were involved thirty or forty years ago, when not only was there much wrong, but when, we may say, looking back with the light of the experience we have since gained, there was nothing right in the relations of our colonies with the mother country. We have had experience of the policy of restraint attempted to be applied by European countries to their colonial possessions; and we have not only that experience in former

generations to guide us, but we have also had most serious warnings addressed to ourselves, especially in the case of the great colony of Canada. Therefore, it is an honourable chapter in the history of our own times that there has been a great and almost continuous effort among our statesmen, without distinction of party, to work out a policy such as to avoid the peril and disgrace, which, whenever the period should arrive, would attach to separation effected by violence and bloodshed. This is done to the present hour, and it is not, as supposed, the introduction of a new policy, but the successive application of principles now established and recognized by persons of authority of every shade of politics, and received, it may be said, with universal assent. That is the case as regards the policy we have endeavoured humbly to pursue; and it does not, in my opinion, tend to weaken the relations between the mother country and the colonies, but on the contrary, while securing the greatest likelihood of a perfect peaceable separation, whenever separation may arrive, gives the best chance of an indefinitely long continuance of a free and voluntary connection. That is the footing on which we, like our predecessors, have endeavoured to found our colonial policy. Freedom and voluntaryism form the character of the connection, and our policy is not to be regarded as a surreptitious or clandestine means of working out the foregone purpose of casting off the colonies, but as the truest and best, if not the only means, of fulfilling our obligations to them.

And with respect to pecuniary matters, a large deduction must be made before I can adopt the observations of the hon. Gentleman who brought forward this motion [Mr. R. Torrens] who I am sorry should have made such continual reference to the economical proceedings of the present or any Government—for the present Government is not the only Government who have avowed the principle of retrenchment. He exhausted the vocabulary of epithets in describing what he called the unworthy way in which our colonial policy is conducted, calling it a pound, shilling, and pence policy, and accusing us of

higgling with the colonies, and of a disposition to 'travel third-class'. Does he mean to say that we are, for the sake of economy, abandoning honour and duty? The hon. Gentleman may make light of extravagance and be ready to sacrifice the interest of the taxpayer, thinking the fact of an economical result the severest condemnation of our policy; but we never said that for the sake of economical results the obligation of any duty was to be made light of. With respect to colonial defence, though the pecuniary burden entailed was the chief evil we had to contend with, still I thought that the greatest evil done by that system was done to the colonies themselves. We did not teach our colonies to rely upon themselves; but we taught them to rely that, come what would, they would be defended by a power thousands of miles away. It is impossible to establish a free community unless you have, along with the enjoyment of the privileges of freedom, a fair distribution of the burdens which they entailed. Unless men are taught to rely upon themselves they can never be truly worthy of the name of freemen.

A CONCEPTION OF THE BRITISH EMPIRE

JOSEPH CHAMBERLAIN

*London, 31 March 1897**(Foreign and Colonial Speeches (1897), pp. 242 ff.)*

[This speech, made at the Royal Colonial Institute Dinner, is specially notable for its inclusion of remarks on Imperial Federation.]

It seems to me that there are three distinct stages in our Imperial history. We began to be, and we ultimately became, a great Imperial Power in the eighteenth century, but, during the greater part of that time, the colonies were regarded, not only by us, but by every European Power that possessed them, as possessions valuable in proportion to the pecuniary advantage which they brought to the mother country, which, under that order of ideas, was not truly a mother at all, but appeared rather in the light of a grasping and absentee landlord desiring to take from his tenants the utmost rents he could exact. The colonies were valued and maintained because it was thought that they would be a source of profit—of direct profit—to the mother country.

That was the first stage, and when we were rudely awakened by the War of Independence in America from this dream, that the colonies could be held for our profit alone, the second chapter was entered upon, and public opinion seems to have drifted to the opposite extreme; and, because the colonies were no longer a source of revenue, it seems to have been believed and argued by many people that their separation from us was only a matter of time, and that that separation should be desired and encouraged lest haply they might prove an encumbrance and a source of weakness.

It was while those views were still entertained, while the little Englanders were in their full career, that this

Institute was founded to protest against doctrines so injurious to our interests and so derogatory to our honour; and I rejoice that what was then, as it were, 'a voice crying in the wilderness' is now the expressed and determined will of the overwhelming majority of the British people. Partly by the efforts of this Institute and similar organisations, partly by the writings of such men as Froude and Seeley, but mainly by the instinctive good sense and patriotism of the people at large, we have now reached the third stage in our history, and the true conception of our Empire.

What is that conception? As regards the self-governing colonies, we no longer talk of them as dependencies. The sense of possession has given place to the sentiment of kinship. We think and speak of them as part of ourselves, as part of the British Empire, united to us, although they may be dispersed throughout the world, by ties of kindred, of religion, of history, and of language, and joined to us by the seas that formerly seemed to divide us.

But the British Empire is not confined to the self-governing colonies and the United Kingdom. It includes a much greater area, a much more numerous population in tropical climes, where no considerable European settlement is possible, and where the native population must always vastly outnumber the white inhabitants; and in these cases also the same change has come over the Imperial idea. Here also the sense of possession has given place to a different sentiment—the sense of obligation. We feel now that our rule over these territories can only be justified if we can show that it adds to the happiness and prosperity of the people; and I maintain that our rule does, and has brought security and peace and comparative prosperity to countries that never knew these blessings before.

In carrying out this work of civilisation we are fulfilling what I believe to be our national mission, and we are finding scope for the exercise of those faculties and qualities which have made of us a great governing race. I do

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That was the first stage, and when we were rudely awakened by the War of Independence in America from this dream, that the colonies could be held for our profit alone, the second chapter was entered upon, and public opinion seems to have drifted to the opposite extreme; and, because the colonies were no longer a source of revenue, it seems to have been believed and argued by many people that their separation from us was only a matter of time, and that that separation should be desired and encouraged lest haply they might prove an encumbrance and a source of weakness.

It was while those views were still entertained, while the little Englanders were in their full career, that this

Institute was founded to protest against doctrines so injurious to our interests and so derogatory to our honour; and I rejoice that what was then, as it were, 'a voice crying in the wilderness' is now the expressed and determined will of the overwhelming majority of the British people. Partly by the efforts of this Institute and similar organisations, partly by the writings of such men as Froude and Seeley, but mainly by the instinctive good sense and patriotism of the people at large, we have now reached the third stage in our history, and the true conception of our Empire.

What is that conception? As regards the self-governing colonies, we no longer talk of them as dependencies. The sense of possession has given place to the sentiment of kinship. We think and speak of them as part of ourselves, as part of the British Empire, united to us, although they may be dispersed throughout the world, by ties of kindred, of religion, of history, and of language, and joined to us by the seas that formerly seemed to divide us.

But the British Empire is not confined to the self-governing colonies and the United Kingdom. It includes a much greater area, a much more numerous population in tropical climes, where no considerable European settlement is possible, and where the native population must always vastly outnumber the white inhabitants; and in these cases also the same change has come over the Imperial idea. Here also the sense of possession has given place to a different sentiment—the sense of obligation. We feel now that our rule over these territories can only be justified if we can show that it adds to the happiness and prosperity of the people; and I maintain that our rule does, and has brought security and peace and comparative prosperity to countries that never knew these blessings before.

In carrying out this work of civilisation we are fulfilling what I believe to be our national mission, and we are finding scope for the exercise of those faculties and qualities which have made of us a great governing race. I do

not say that our success has been perfect in every case, I do not say that all our methods have been beyond reproach; but I do say that in almost every instance in which the rule of the Queen has been established and the great *Pax Britannica* has been enforced, there has come with it greater security to life and property, and a material improvement in the condition of the bulk of the population. No doubt, in the first instance, when these conquests have been made, there has been bloodshed, there has been loss of life among the native populations, loss of still more precious lives among those who have been sent out to bring these countries into some kind of disciplined order, but it must be remembered that that is the condition of the mission we have to fulfil. There are, of course, among us—there always are among us, I think—a very small minority of men who are ready to be the advocates of the most detestable tyrants, provided their skin is black—men who sympathise with the sorrows of Prempeh and Lobengula, and who denounce as murderers those of their countrymen who have gone forth at the command of the Queen, and who have redeemed districts as large as Europe from the barbarism and the superstition in which they had been steeped for centuries. I remember a picture by Mr. Selous of a philanthropist—an imaginary philanthropist, I will hope—sitting cosily by his fireside and denouncing the methods by which British civilisation was promoted. This philanthropist complained of the use of Maxim guns and other instruments of warfare, and asked why we could not proceed by more conciliatory methods, and why the impis of Lobengula could not be brought before a magistrate, fined five shillings, and bound over to keep the peace.

No doubt there is humorous exaggeration in this picture, but there is gross exaggeration in the frame of mind against which it was directed. You cannot have omelettes without breaking eggs; you cannot destroy the practices of barbarism, of slavery, of superstition which for centuries have desolated the interior of Africa, without the use of force; but if you will fairly contrast the gain to

humanity with the price which we are bound to pay for it, I think you may well rejoice in the result of such expeditions as those which have recently been conducted with such signal success in Nyassaland, Ashanti, Benin, and Nupé—expeditions which may have, and indeed have, cost valuable lives, but as to which we may rest assured that for one life lost a hundred will be gained, and the cause of civilization and the prosperity of the people will in the long run be eminently advanced. But no doubt such a state of things, such a mission as I have described, involves heavy responsibility. In the wide dominions of the Queen the doors of the temple of Janus are never closed; and it is a gigantic task we have undertaken when we have determined to wield the sceptre of empire. Great is the task, great is the responsibility, but great is the honour; and I am convinced that the conscience and the spirit of the country will rise to the height of its obligations, and that we shall have the strength to fulfil the mission which our history and our national character have imposed upon us.

In regard to the self-governing colonies our task is much lighter. We have undertaken, it is true, to protect them with all the strength at our command against foreign aggression, although I hope that the need for our intervention may never arise. But there remains what then will be our chief duty—that is, to give effect to that sentiment of kinship to which I have referred and which I believe is deep in the heart of every Briton. We want to promote a closer and a firmer union between all members of the great British race, and in this respect we have in recent years made great progress—so great that I think sometimes some of our friends are apt to be a little hasty, and to expect even a miracle to be accomplished. I would like to ask them to remember that time and patience are essential elements in the development of all great ideas. Let us, gentlemen, keep our ideal always before us. For my own part, I believe in the practical possibility of a federation of the British race, but I know that it will come, if it does come, not by pressure, not by anything

in the nature of dictation from this country, but it will come as the realisation of a universal desire, as the expression of the dearest wish of our colonial fellow-subjects themselves.

That such a result would be desirable, would be in the interest of all of our colonies as well as of ourselves, I do not believe any sensible man will doubt. It seems to me that the tendency of the time is to throw all power into the hands of the greater Empires; and the minor Kingdoms—those which are non-progressive—seem to be destined to fall into a secondary and subordinate place. But, if Greater Britain remains united, no empire in the world can ever surpass it in area, in population, in wealth, or in the diversity of its resources.

Let us, then, have confidence in the future. I do not ask you to anticipate with Lord Macaulay the time when the New Zealander will come here to gaze upon the ruins of a great dead city. There are in our present condition no visible signs of decrepitude and decay. The mother country is still vigorous and fruitful, is still able to send forth troops of stalwart sons to people and to occupy the waste spaces of the earth; but yet it may well be that some of these sister nations whose love and affection we eagerly desire may in the future equal and even surpass our greatness. A trans-oceanic capital may arise across the seas, which will throw into shade the glories of London itself; but, in the years that must intervene, let it be our endeavour, let it be our task, to keep alight the torch of Imperial patriotism, to hold fast the affection and the confidence of our kinsmen across the seas, that so in every vicissitude of fortune the British Empire may present an unbroken front to all her foes, and may carry on even to distant ages the glorious traditions of the British flag.

IMPERIAL FEDERATION
JOSEPH CHAMBERLAIN

Speech at Colonial Conference, 24 June 1897

[THIS was the first explicit approach of an official kind to the subject of Imperial Federation by a Minister. Joseph Chamberlain's suggestions were not taken up. No formal proposal was made at the Conference; and, since then, the subject has steadily receded from the sphere of practical politics.]

Now, Gentlemen, undoubtedly the greatest, the most important, and at the same time the most difficult of all the subjects which we could consider is the question of the future relations, political and commercial, between the self-governing colonies and the United Kingdom. I do not think it is necessary for me to argue at all upon the advantages of such closer union. Strong as is the bond of sentiment, and impossible as it would be to establish any kind of relations unless that bond of sentiment existed, I believe we all feel that it would be desirable to take advantage of it, and to still further tighten the ties which bind us together. In this country, at all events, I may truly say that the idea of federation is in the air. Whether with you it has gone as far, it is for you to say, and it is also for you to consider whether we can give any practical application to the principle. It may well be that the time is hardly ripe for anything definite in this regard. It is quite true that our own constitution and your constitutions have all been the subject of very slow growth and that they are all the stronger because they have been gradually consolidated, and so perhaps with Imperial Federation: if it is ever to be accomplished, it will be only after the lapse of a considerable time and only by gradual steps.

And undoubtedly one of those steps to which we must

all attach very great importance is the grouping of the colonies. We rejoice in this country that Canada has already shown the way, with results which every one has seen have conduced greatly to her strength and to her prosperity. We observe, with the most lively interest, the proceedings which are taking place in Australia with the same view. We know that in South African politics the same idea has bulked very largely in the past, and probably will come to the front again. In regard to all these matters it is not for us to offer advice; it is not for us to press upon you in any shape our interference or our assistance. If it be possible for us in any way to help you to give effect to your own desires, I need not say that we are entirely at your service; but, in the meanwhile, I can assure you, on behalf, I am sure, of the people of this country, that we most heartily wish success to your efforts, believing, as I have said, that it will in your case, as it has already done in the case of Canada, conduce to your prosperity and to your power. But as regards the larger question, and anything in the nature of a federation of the Empire, the subject seems to me to depend entirely upon the feeling which exists in the colonies themselves. Here you will be met half-way. The question is whether up to the present time there is such a genuine popular demand for closer union as would justify us in considering practical proposals to give it shape.

I feel that there is a real necessity for some better machinery of consultation between the self-governing colonies and the mother country, and it has sometimes struck me—I offer it now merely as a personal suggestion—that it might be feasible to create a great council of the Empire to which the colonies would send representative plenipotentiaries,—not mere delegates who were unable to speak in their name, without further reference to their respective Governments, but persons who, by their position in the colonies, by their representative character, and by their close touch with colonial feeling, would be able, upon all subjects submitted to them, to give really effective and valuable advice. If such a council were to

be created it would at once assume an immense importance, and it is perfectly evident that it might develop into something still greater. It might slowly grow to that Federal Council to which we must always look forward as our ultimate ideal.

And to a council of this kind would be committed, in the first instance, the discussion of all minor subjects of common interest, and their opinion would be taken and would weigh most materially in the balance before any decision were come to either by this country or by the legislatures of the several colonies in regard to such matters.

There is only one point in reference to this which it is absolutely necessary that we all should bear in mind. It may be that the time has come, and, if not, I believe it will come, when the colonies will desire to substitute for the slight relationship which at present exists a true partnership, and in that case they will want their share in the management of the Empire which we like to think is as much theirs as it is ours. But, of course, with the privilege of management and of control will also come the obligation and the responsibility. There will come some form of contribution towards the expense for objects which we shall have in common. That, I say, is self-evident, but it is to be borne in mind, even in these early stages of the consideration of the subject.

IMPERIAL RELATIONS

SIR ROBERT BORDEN

Speech at Imperial Conference, 16 April 1917

[THE Conference resolved that any readjustment of constitutional relations, 'while thoroughly preserving all existing powers of self-government and complete control of domestic affairs, should be based upon a full recognition of the Dominions as autonomous nations of an Imperial Commonwealth, should recognize their right to an adequate voice in foreign policy and in foreign relations, and should provide effective arrangements for continuous consultation in all important matters of common Imperial concern and for such necessary concerted action founded on consultation as the several Governments may determine'.]

The subject is one upon which I might speak at great length. Many proposals with regard to the subject have been discussed in the United Kingdom and in all the Dominions of the Empire for many years past in all possible phases. There can be no doubt as to its importance. The growth of the Dominions in wealth and population has been very remarkable during the past fifty years, especially during the last twenty-five years. Their future growth we hope—and, more than that, we believe—will be even more marked. Foreign policy and foreign relations, with which is intimately connected the question of the common defence of the Empire, have been under the immediate control of the Government of the United Kingdom, responsible to the Parliament of the United Kingdom. It would appear from the views of constitutional writers that this condition, during the later phases of the growth of the Oversea Dominions, has proceeded on a theory of trusteeship which, whatever may be said of it in the past, is certain to prove not only entirely inade-

quate to the needs of the Empire but incompatible with the aspirations of the people of the Dominions in the future. I have spoken of the growth of the Dominions; it is by no means improbable that children now living will see their population surpass that of the United Kingdom. It is quite within the range of possibility that a single Dominion might grow to the extent which I have mentioned. Therefore, it seems to me beyond question that the theory of trusteeship to which I have alluded cannot be continued indefinitely in the future.

In approaching the subject one is impressed especially with this consideration, that the greatest intellects of the Empire in the past have miscalculated the conditions that would develop in the Dominions, and have failed to foresee the relations of the Empire under the policy of developing full powers of self-government, which was supposed to have the tendency of weakening, if not severing, the ties which unite the Dominions to the mother country. The policy of complete control in domestic affairs and complete autonomy in all local affairs, instead of weakening the ties which unite the Empire, has very greatly strengthened them. It was said by a statesman of the highest capacity after that policy had been embarked upon (that is, the policy of granting to the Dominions complete autonomy) that it was an absolute mistake, that it could only lead to the weakening and severance of relations, and that it would have been a wise policy to preserve in the United Kingdom control over their fiscal policy; that this would have tended to unite the Empire; and regret was expressed that some such policy had not been maintained. All of us in the Dominions, and I think the people of the British Isles, realize now that any such policy would have had most unfortunate and, more than that, disastrous results. The policy which was supposed to weaken the Empire has really strengthened it, and I look forward to a development in the future along the line of an increasingly equal status between the Dominions and the mother country.

It seems to me that the attainment of full citizenship,

which involves a voice in foreign relations, will proceed along the line to which I have alluded. The nations of the Empire are really bound together by the tie of a common allegiance, by like institutions and ideals of democracy, and by like purposes. Such ties will bring the nations of the Empire together more closely upon the line which I have mentioned. I say this with a full understanding that it is unwise, having regard to the lessons of the past, for any of us to predict absolutely the developments of the future. But, nevertheless, the line of development which has been noticeable during the past twenty or twenty-five years seems to point unmistakably to that conclusion. Indeed, the action of the Dominions in this war has made the spirit of nationhood splendidly manifest. The fact that one million men in the Dominions have taken up arms for the defence of the Empire's existence and the maintenance of its future influence is so significant a lesson that one would be unwise not to have it constantly in mind.

I believe that the Dominions fully realize the ideal of an Imperial Commonwealth of United Nations, and one should not forget the importance of the Crown as a tie between the Dominions and the mother country. His Majesty King George V is especially associated with the Oversea Dominions, because he is the first Sovereign who, before he ascended the throne, availed himself of the opportunity to visit all parts of the Empire and to make himself acquainted with the ideals and aspirations of their people. And the Queen was recognized throughout the Dominions of the Empire as distinctively a British princess before her marriage to the King.

IMPERIAL RELATIONS

*GENERAL JAN CHRISTAAN SMUTS**Speech at Imperial Conference, 16 April 1917*

[SEE note on No. 106.]

I need hardly point out that this is far and away the most important point on the agenda of our Conference this time.

The British Empire is the most important and fascinating problem in political and constitutional government which the world has ever seen. Whenever we come to this question of a proper Constitution for this Empire we touch on the very gravest and most important issues. As a matter of fact we are the only group of nations that has ever successfully existed. People talk about a league of nations and international government, but the only successful experiment in international government that has ever been made is the British Empire, founded on principles which appeal to the highest political ideals of mankind. Founded on liberal principles, and principles of freedom and equality, it has continued to exist for a good time now, and our hope is that the basis may be so laid for the future that it may become an instrument for good, not only in the Empire but in the whole world. . . .

The Resolution says that any future settlement that is come to must 'be based upon a full recognition of the Dominions as autonomous nations of an Imperial Commonwealth'. The whole question of the future status of the Dominions is, therefore, raised in this Resolution. So far the British Empire has developed along natural lines. The Dominions started as colonies and as settlements of the mother country and of the British Isles. They started as Crown colonies; they developed into self-governing colonies; and now they have become the

present Dominions. Other parts of the world have been added to the Empire, until to-day we have really a congeries of nations. These old colonies and the present Dominions have in course of time increased in importance, increased in population, and in economic importance, and are to-day already playing a part in the world which seems to my mind to make it very necessary that their status should be very seriously considered, and should be improved.

Too much, if I may say so, of the old ideas still clings to the new organism which is growing. I think that, although in practice there is great freedom, yet in actual theory the status of the Dominions is of a subject character. Whatever we may say, and whatever we may think, we are subject Provinces of Great Britain. That is the actual theory of the Constitution, and in many ways which I need not specify to-day that theory still permeates practice to some extent. I think that is one of the most important questions—one of the most important matters—that will have to be dealt with when this question of our future constitutional relations on a better and more permanent basis comes to be considered. The status of the Dominions as equal nations of the Empire will have to be recognised to a very large extent. The Governments of the Dominions as equal Governments of the King in the British Commonwealth will have to be considered far more fully than that is done to-day, at any rate in the theory of the Constitution, if not in practice.

That is the most important principle laid down in the second part of this Resolution, that there should be 'a full recognition of the Dominions as autonomous nations.' And, to strengthen the point, the Resolution goes on to affirm that the existing powers of self-government should not be interfered with. Of course there is a good deal of feeling of natural and justifiable jealousy in the Dominions as to the rights which they have acquired and which they do not like to be tampered with, and, naturally, I think it is very wise to add this to the Resolution, that their existing powers of self-government should not

be tampered with. If that is so, it follows that one theory, one proposed solution of our future constitutional relations, is negatived by this Resolution. If this Resolution is passed, then one possible solution is negatived, and that is the Federal solution. The idea of a future Imperial Parliament and a future Imperial Executive is negatived by implication by the terms of this Resolution. The idea on which this Resolution is based is rather that the Empire would develop on the lines upon which it has developed hitherto, that there would be more freedom and more equality in all its constituent parts; that they will continue to govern themselves; that whatever executive action has to be taken, even in common concerns, would have to be determined, as the last paragraph says, by 'the several Governments' of the Empire, and the idea of a Federal solution is, therefore, negatived, and, I think, very wisely, because it seems to me that the circumstances of the Empire entirely preclude the Federal solution. Here we are, as I say, a group of nations, spread over the whole world, speaking different languages, belonging to different races with entirely different economic circumstances; and to attempt to run even the common concerns of that group of nations by means of a Central Parliament and a Central Executive is, to my mind, absolutely to court disaster. The experiment has been tried in the United States, and, it is said, with great success. Well, of course, the experiment in the United States has not lasted very long, and we must see whether it will continue successfully under the stress of the great experience into which America is now entering. But I am now informed by those who are very close observers of American government and American institutions that they are certain that the experiment has reached its utmost limits. In that case you have a compact country, a compact half continent, where people live together, where they all go through the same mould, and where they are all formed more or less on the same lines; whereas in this Empire you have an entirely different state of affairs. The young nations are developing on their own lines; the

young nations are growing into Great Powers; and it will be impossible to attempt to govern them in future by one common legislature and one common Executive.

Then, if we are to continue as nations and to grow as nations and govern ourselves as nations, the great question arises: How are we to keep this Empire together? That is the other important point, I take it, in this Resolution—the point which recognises that there should be effective arrangements for continuous consultation in all common concerns, especially in concerns which are mentioned there specifically, that is foreign policy; but in all common concerns that there should be effective arrangements for continuous consultation. . . . I think it will not pass the wit of man to devise ways of continuous consultation—not intermittent, not every four years as we have had hitherto, but continuous consultation. . . . In that way it will be possible, while leaving full executive action to the various more or less equal Governments of the Empire, . . . to see that in all important concerns there is consultation and continuous consultation; that there is an exchange of ideas and that the system, whilst preserving freedom and equality in its parts, will work with a strong sense of unity at the centre.

I think that, if this Resolution is passed, Sir, we will have taken an immense step forward in the history of the Empire. If we pass no other Resolution at this Conference than this one, I am sure that we will have done a good day's work for this Empire. We are emerging out of one era and we are entering upon another where much greater problems will confront us than ever before. So far it has been possible for each of us to go his own way, meeting once in so many years. In future it will be necessary for us to keep much more closely in touch with each other.

IMPERIAL RELATIONS

GENERAL JAN CHRISTAAN SMUTS

*London, 15 May 1917**(War Time Speeches (1917))*

[THIS speech was made at a banquet given in honour of General Smuts, in the Royal Gallery at the House of Lords, by members of both Houses of Parliament.]

I think that we are inclined to make mistakes in thinking about this group of nations to which we belong, because too often we think about it as one State. We are not a State. The British Empire is much more than a State. I think the very expression 'Empire' is misleading, because it makes people think that we are one community, to which the word 'Empire' can appropriately be applied. Germany is an Empire. Rome was an Empire. India is an Empire. But we are a system of nations. We are not a State, but a community of States and nations. We are far greater than any Empire which has ever existed, and by using this ancient expression we really disguise the main fact that our whole position is different, and that we are not one State or nation or empire, but a whole world by ourselves, consisting of many nations, of many States, and all sorts of communities, under one flag.

We are a system of States, and not a stationary system, but a dynamic evolving system, always going forward to new destinies. Take the position of that system to-day. Here you have the United Kingdom with a number of Crown colonies. Besides that you have a large protectorate like Egypt, an Empire by itself. Then you have a great dependency like India, also an Empire by itself, where civilisation has existed from time immemorial, where we are trying to see how East and West can work

together. These are enormous problems; but beyond them we come to the so-called Dominions, independent in their government, which have been evolved on the principles of your free constitutional system into almost independent States, which all belong to this community of nations, and which I prefer to call 'the British Commonwealth of Nations'.

You can see that no political ideas which have been evolved in the past will apply to this world which is comprised in the British Empire; and any name we have yet found for this group is insufficient. The man who will find a proper name for this system will, I think, do real service to the Empire.

The question is: How are you going to provide for the future government of this Commonwealth? An entirely new problem is presented. If you want to see how great it is, you must indulge in comparison. Look at the United States. There you find what is essentially one nation, not perhaps in the fullest sense, but what is more and more growing into one nation; one big State consisting, no doubt, of separate parts, but all linked up into one big continuous area. The United States had to solve the problem which this presented, and they discovered the federal solution—a solution which provides subordinate treatment for the subordinate parts, but one national Federal Government and Parliament for the whole. Compare with that State the enormous system which is comprised in the British Empire. You can see at once that a solution which has been found practicable in the case of the United States will never work in the case of a system such as we are, comprising a world by itself.

What I feel in regard to all the empires of the past, even in regard to the United States, is that the effort has always been towards forming one nation. All the empires we have known in the past and that exist to-day are founded on the idea of assimilation, of trying to force human material into one mould. Your whole idea and basis is entirely different. You do not want to standardise the nations of the British Empire; you want to develop them

towards greater, fuller nationality. These communities, the offspring of the mother country, or territories like my own, which have been annexed after the vicissitudes of war, must not be moulded on any one pattern. You want them to develop freely on the principles of self-government, and therefore your whole idea is different from anything that has existed before. That is the fundamental fact we have to bear in mind—that this British Commonwealth of Nations does not stand for standardisation or denationalisation, but for the fuller, richer, and more various life of all the nations comprised in it.

Even the nations which have fought against it, like my own, must feel that their cultural interests, their language, their religion, are as safe and as secure under the British flag as those of the children of your own household and your own blood. It is only in proportion as this is realised that you will fulfil the true mission which is yours. Therefore, it seems to me that there is only one solution, and that is a solution supplied by our past traditions—the traditions of freedom, self-government, and of the fullest development of all constituent parts of the Empire.

The question arises: How are you going to keep this Commonwealth of Nations together? If there is to be this full development towards a more varied and richer life among our nations, how are you going to keep them together? It seems to me that there are two potent factors that you must rely upon for the future. The first is your hereditary Kingship, the other is our Conference system. I have seen some speculations recently in the newspapers about the position of the Kingship in this country—speculations by people who, I am sure, have not thought of the wider issues that are at stake. You cannot make a republic of the British Commonwealth of Nations.

If you had to elect a President, he would have to be a President not only here in these islands, but all over the British Empire—in India and in the dominions—the President would be really representative of all these peoples; and here you would be facing an absolutely insoluble problem. The theory of the Constitution is that

the King is not your King, but the King of all of us, ruling over every part of the whole Commonwealth of Nations; and if his place should be taken by anybody else, that somebody would have to be elected under a process which it will pass the wit of man to devise. Let us be thankful for mercies. We have a kingship here which is really not very different from a hereditary republic. I am sure that, more and more in the future, the trend will be in the direction of a more democratic kingship, and I shall not be surprised to see the time come when our Royal princes, instead of getting their consorts from among the princelings of central Europe, will go for them to the dominions and other portions of the British Empire.

In regard to the present system of Imperial Conferences, it will be necessary to devise better machinery for common consultation than we have at present. So far we have relied on Imperial Conferences which meet once in every four years or thereabouts. However useful has been the work done at these Conferences, they have not, in my opinion, been a complete success. It will be necessary to devise better means of achieving our ends. A precedent has now been laid down of calling together the Dominion Prime Ministers and representatives from the Empire of India to the Imperial Cabinet. You have seen a statement made by Lord Curzon that it is the intention of the Government to perpetuate this system in the future. Although we shall have to wait for a complete explanation of the scheme from the Government, yet it is clear that in an institution like that we have a better instrument of common consultation than we have in the old Imperial Conference which meets only every four years and which discusses a number of subjects not really of first-rate importance.

What is necessary is that there shall be called together the most important rulers of the Empire, say once a year, to discuss matters which concern all parts of the Empire in common, in order that causes of friction and misunderstanding may be prevented or removed. We also need a

meeting like that in order to lay down a common policy in common matters concerning the Empire as a whole, and to determine the true orientation of our common Imperial policy.

There is, for instance, foreign policy on which the fate of the Empire might from time to time depend. Some such method of procedure must lead to very important results and very great changes. You cannot settle a common foreign policy for the whole of the British Empire without changing that policy very much from what it has been in the past, because the policy will have to be, for one thing, far simpler. In the other parts of the Empire we do not understand diplomatic finesse. If our foreign policy is going to rest not only on the basis of our Cabinet here, but, finally, on the whole of the British Empire, it will have to be a simpler policy, a far more intelligible policy, and a policy which will in the end lead to less friction and greater safety.

No one will dispute the primacy of the Imperial Government in this respect. We shall always look upon the British Government as the senior partner in the concern, as the managing director responsible for our foreign affairs and responsible for carrying on those affairs in the intervals between the meetings of the Imperial Cabinet. But the Imperial foreign policy must always be subject to the principles laid down from time to time at the meetings of the Imperial Cabinet. Such a policy will in the long run be saner and safer for the Empire as a whole. I also think it will lead to greater publicity.

After the great catastrophe which has overtaken Europe, nations in future will want to know more about their foreign policy. I am sure that the after effects of a change like this, although it looks a simple one, are going to be very important and far-reaching, not only for our Commonwealth of Nations, but for the whole world.

Far too much stress has been laid in the past on instruments of government. People are inclined to forget that the world is growing more democratic, and that public opinion and the forces finding expression in public

opinion are going to be far more powerful than they have been in the past. Where you build up a common patriotism and a common ideal, the instrument of government will not be a thing that matters so much as the spirit which actuates the whole.

IMPERIAL RELATIONS

EARL OF BALFOUR

House of Lords, 8 December. 1926.(65 *H.L. Deb.*, 5 s., 1331 ff.)

[LORD BALFOUR spoke in reply to Lord Parmoor, who rose to call attention to the work of the Imperial Conference.]

I do not think I ever heard a speech from any member of your Lordships' House which seemed to me to approach a very important, a very difficult, and in some respects, a very complicated question so precisely from the wrong point of view. What is the noble Lord's [Lord Parmoor's] point of view? He says: 'You have made declarations with regard to the *status* of the Dominions.' He does not deny that he sympathises with those declarations; he does not deny that that is the sort of idea that he himself cherishes; but he says: 'What folly to lay down the general principles on which this Empire is now constructed. I think you should first settle all the preliminary details, and smooth away all the technical difficulties which have their origin in the long history of our oversea Dominions.'

I cannot imagine any policy from which I more profoundly differ. You are to set yourself every kind of problem, every sort of difficulty which may conceivably arise in the course of applying the broad principles of equality of *status* before you dare to announce that equality of *status* exists. Can anything be more legal or less statesmanlike? I cannot even put myself in the frame of mind of the noble Lord on that subject. He asks, for instance, if the Dominions want to separate from us, what exactly would happen then, what sort of notice ought to be given, by what procedure would it be done. You

might as well consider all the causes of divorce before you decide upon the problems of matrimony.

Does not the noble Lord see that it would be impracticable for the Conference of the Dominions and the mother country to meet at Westminster to say: 'Well, on the whole we are inclined to think the idea of Empire is one to which we may all look forward and which will embody equality of *status*, but just think of how many questions we must decide before we get to that point. Here is this difficulty and there is another difficulty arising out of the Act of 1865. There are all these problems with regard to the Merchant Shipping Act. We must settle all those before we decide on what principle this collection of self-governing States is to work together?' I boldly say to your Lordships' House that that is from beginning to end the wrong way of going to work. We have gone on exactly the opposite way. I believe we have done nothing new.

I was reminded to-day of a speech which, frankly, I had quite forgotten, that I myself made in your Lordships' House on the subject earlier in the Session, and which appears to me to put the whole case. I do not know whether it would bore your Lordships but it does put the whole case. I said in reference to the relations between the mother country and the Dominions:

'My own personal view is that the relations are those necessarily of equality. None of us conceive that of this conglomeration of free States one is above the other. One may have more responsibility than another, one may be in more dangers than another, one may be closer to the centre of international complications than another, but all are on an equality. That is the very essence, as I understand it, of the British Empire. As to exactly what that equality involves, as to exactly what degree of responsibility each has for the other, on that I personally think very little is gained by refining, discussing, or defining.'

May I read what follows, because it deals with another point about which the noble Lord spoke:

'I should say that, so far as this country is concerned, we

are bound to go to war to defend any part of this Empire which is in danger. Personally, I think the duties of all the other members of the Empire to us are not less than our duties to them, but, as to the particular conditions under which that great duty is to be exercised, I do not believe anything is gained by inventing hard cases beforehand.'

That is what I said a month before the Conference met. It is what, equally strongly, at the moment I believe. Nothing is gained and much may be lost by the kind of argumentation in which the noble Lord has indulged this evening.

Remember exactly what the position is. In this country we are all familiar with the idea of equality between the self-governing portions of the Empire. I will not give the quotations, but it has been stated by various high authorities for the last quarter of a century and has never, I think, been formally contradicted within these shores. But that is not the position in all the Dominions. In many of the Dominions there is a minority—in most cases, I dare say, a very small minority—who are always following the train of thought which recommends itself so much to the noble Lord. They are always looking at these survivals of an earlier past and saying: 'How can you consider that we in this or that Dominion are on an equality with the mother country when we find still unrepealed this or that statute?' If you are to allow that kind of statement to go uncontradicted, unqualified by the broad considerations of equality with which you ought to begin, of course you can get in an audience mixed up in local controversy a certain amount of opinion in favour of the assertion that, whatever talk may go on in England, in this or that Dominion things are far otherwise and the boasted equality between the various self-governing parts of our Empire does not, in fact, exist. It does, in fact, exist.

What is contrary to the fact are these survivals of a previous condition of things, survivals which have no practical effect, which have no practical interference with that equality which each part of the self-governing parts

of the Empire may justly claim for itself, but which no doubt can be set out in a formal document which, if you choose to treat the whole thing as purely a question of law, might have an effect, and as I believe has had an effect, in local controversies overseas.

There is but one way of getting rid of that difficulty, and getting rid of it for ever, and that is to take advantage of the presence within our shores of the Prime Ministers, who are representative each of his own Dominion, meeting round a table discussing this question in all its aspects and coming unanimously to the conclusion that I have ventured to say represents British opinion, and to agree that it may be desirable to consider this or that difficulty in the future; but that the broad principle—never interfered with on any important point—stands, that no control is exercised by any single one of the self-governing parts of the Empire over any other part of the Empire.

We stand on an equality, and if some foreign critics are disposed to say that standing on an equality means that we are bound to separate in a short time, my view is precisely the contrary. My view, most strongly, is that the British Empire is now a more united organism than it has ever been before, that that organism is held together far more effectually by the broad loyalties, by the common feelings and interests—in many cases, of history—and by devotion to the great world ideals of peace and freedom. A common interest in loyalty, in freedom, in ideals—that is the bond of Empire. If that is not enough, nothing else is enough. If that is not enough, what is the use of this shadowy pre-eminence to which the noble Lord referred in the earlier part of his speech and which he seemed to think ought to be considered by a Commission and dealt with according to its desires? That is not the way you are going to have unanimity, that is not the way you are going to have a solid bond of Empire.

I can perfectly understand any political theorist saying ten years ago that the British Empire was of all political fabrics the feeblest and the least efficient for any purpose of offence or defence or mutual support. But how any-

body can think that, after the War, seems to me perfectly amazing. It may well be that, after the War, people may have said to themselves here and there: 'Well, one result of the War is that a great many communities have been dragged into it who might have been kept out of it.' But that is not the prevailing feeling that has been left.

Nothing, as I believe, can increase the feeling of solidarity more than the sense that the solidarity depends on the complete sense of free equality. There cannot be, of course, equality of function in this Empire. That must depend on the circumstances of the moment. At the moment, and for many years to come—many, many years to come—the main burden of defence must necessarily fall upon this country. For many years to come—perhaps for an indefinite period—owing to our geographical position, the leading part, and at present by far the most important part, of the conduct of our foreign affairs must also fall on this country. But these are questions of function, varying with the conditions of the time, varying with the actual practical necessities that have to be met. They in no way conflict, at least in my view, and I am sure in the view of those who took part in the Imperial Conference, with that fundamental equality of *status* which can be the only permanent bond between these self-governing portions of the Empire. . . .

The fact remains, and will, I hope, always remain, that these self-governing States of which the Empire is composed have each a separate identity which, I think, could not but be recognised after the events of 1918, and that the difficulties of that separate identity, in which we are all equal, in which this country has no superiority over any one of the Dominions, will be got over in practice. It is got over at every meeting in Geneva. I am sure that my noble friend and I could have invented any number of hard cases when we had these co-equal, self-governing communities all represented on the League of Nations and all able by their separate veto to stop the League of Nations doing anything. You would say *a priori* that this was a system that would not work at all. I am not

prepared to say that it will never produce a difficulty, but I do say that it has worked perfectly up to the present moment and that my belief is that the common sense of other nations and the patriotism and the feeling of unity of the separate members of the Empire will enable it to work successfully in the future as it has so far successfully worked in the past.

IMPERIAL RELATIONS

EARL OF BALFOUR

*Edinburgh, 27 January 1927**(Opinions and Argument (1927), pp. 190 ff.)*

[LORD BALFOUR made, in this speech, some illuminating comments on the conclusions to be drawn from recent developments in Imperial relations and, in particular, from the Report of the Imperial Conference of 1926.]

It is with great pleasure that I respond to the invitation to speak on a subject which, though entirely non-controversial, profoundly interests every citizen of the British Empire. I think the whole community has been conscious, after the issue of the Conference Report, that an important moment had been reached in the evolution of the British Empire. But what exactly was done by the Conference I think they were not quite so clear about, and that was most natural, because, in the first place, they were well aware that the Conference, august though it was, consisting of the Prime Ministers of all the self-governing Dominions and of Great Britain, had no legislative power, had no power of altering laws which govern the Empire, or, indeed, of doing anything at all except give advice in their respective Dominions to the Parliaments by whose support and faith they were present at Westminster.

What, then, was the change that had taken place? The reply was far from obvious, because it never had been denied, for many, many, years, that the Dominions were autonomous. It had been explicitly stated by persons in authority, not, indeed, in any very formal fashion, but—what was even more impressive than a formal statement—it had been stated in the course of speeches as an accepted fact, before audiences which would certainly have

expressed objection had they entertained doubts on the subject.

I myself remember when I was Prime Minister incidentally making a speech on another subject in which I asserted as a universally accepted fact that the Dominions were autonomous and that the idea of any Government in Great Britain interfering with that autonomy was, in fact, unthinkable, and I was reminded that I made a similar statement on the subject at the Albert Hall three years before the War.

Now, why do I say three years before the War? I say it because the War was a crucial incident in the whole recent development of the Empire. It was, as I believe, the accepted fact, though never stated in any formal writing, that the self-governing Dominions were autonomous in the fullest sense of the word. Many persons were quite ready to take account of that, and they immediately drew the moral, especially foreigners, that if the British Empire was simply a collection of autonomous States, with no central authority, bound together by no compulsory laws, why, then, it was not an Empire at all, and whatever airs it might give itself, and however it might talk of our far-flung Dominions, in fact it was a loosely constructed political entity that did not count as a great world force either for war or for peace.

Well, whether it counted for war or not was soon settled in the eyes of the world. To the dismay of our enemies and the delight of our friends, the British Empire, when the time of trial came, showed itself as powerful for purposes of Imperial defence as the most highly organised military despotism of which history gives us any record, and undoubtedly the British Empire has shown what it could do as a unity, although largely composed of those autonomous portions.

There was still a lesson to learn. The War taught the unity of the Empire for the purpose of defence. The peace came, and again that very unity, which had been so manifest when the Empire was in danger, showed itself as a unity composed of independent parts when the

moment came for settling the terms of peace. All through those fateful months when the terms of peace were under discussion, we were in the closest touch with our colleagues from the Dominions in Paris, and when the time for signing the final Treaty of Peace came, every separate Dominion signed as an independent Power. Never was that unity and diversity in unity shown in clearer terms before the face of rather an astonished and puzzled world.

At this moment, when at Geneva the League of Nations meets, the representatives of the Dominions go there, of course, on equal terms with every other nation. Although, as a matter of arrangement among ourselves, the representatives of the Empire are in constant and friendly communication in Geneva, all their constitutional powers as Members of the League are identical with the constitutional powers of any other State in the world, from the greatest to the smallest.

Now, if that is so, and if it was so before the Conference of 1926, what, you may perhaps ask, was there for the Conference to do? In the first place, I think this absolute equality of status was perhaps more obvious to the home country than it was to one or two at least of the Dominions.

In the second place, I would remind you that the Empire in its present condition is the result of an evolutionary process, in which law has always lagged behind practice. There is a well-known and admirable book called 'The Law and Practice of the Constitution'. I am not sure that the title would not have been more appropriate to the actual development of Great Britain, and the Empire to which Great Britain belongs, if the title had been 'The Practice and Law of the Constitution'. I won't argue about that. I will only point out that, considering that what are now the Dominions were originally, for the most part, small and powerless communities dependent on the mother country for many things besides protection, in every sense children, and at that time with the status of children—of course, English-speaking

peoples being what they are, it was inevitable that, as they grew, their whole position altered, and that, though no doubt the laws under which they worked gradually changed, the actual position of the law was always behind the actual practice.

It must now be a quarter of a century since perfectly explicit statements have been made, without contradiction, of the absolute equality of status between Dominions and mother country. But though that represents the facts and the practice, it does not in all respects represent the actual statute law, which the learned among you may find buried away in Acts of Parliament. And, of course, if and when there was in any particular Dominion a section of the community who, according to the practice of sections of the community in free countries, were very glad to pick holes in anything that was done by their political opponents, these survivals of a defunct practice were all dragged to the front and were made the topic of criticisms of the Dominion status, all implying that the status was unfair to the status enjoyed by the mother country.

That was never held here, never, I believe, by thinking people. It was held by many, perhaps, in certain of the Dominions, and it was all-important that when the Prime Ministers met together last November, they should singly and severally, in their collective, as well as in their private capacity, give their great authority to what we in this country have long believed to be a true doctrine—the doctrine of equality of status. I think that that was a very great and vital stage in Empire-building.

There was another doctrine, less important, but worth formulating, and which, so far as I am aware, has never been formulated until a very few weeks or months ago. It is this—that while for all time the status of those autonomous members of the British Empire is identical, there is, and there must be, a differentiation of function. It must be that to one of these Dominions should be entrusted the leading part, let us say, in diplomacy—the leading part in the organisation of defence.

All the Dominions are brought in counsel, all the Dominions are kept informed, as far as conditions of time and space permit, of what is going on, of what is passing in the minds of those conducting our affairs here, of their views. Also, of course, any opinion from any Dominion receives the full weight to which it is entitled, but some differentiation of function there is, always has been, and, I think, always must be. It is not merely that to Great Britain has been entrusted the leading part in diplomacy and defence, but Australia, for example, has a special function with regard to one of the Mandated Territories. New Zealand has a special function with regard to another, and South Africa is responsible for the Mandated Territory of German South-West Africa.

So that is the system which exists, that is the system which ought to exist; I don't say ought to exist in its present shape for all time. I do say that equality of status exists, but the actual arrangement of such differentiation of function as I have indicated must be subject naturally to variations of form as variations of circumstance require or suggest.

Now the great technical importance, the formal importance of the Conference of 1926, is that all the representatives of these great Dominions—and our own Prime Minister is one of them—have met round a table, and have, in face of all the world, declared both the fundamental doctrine of equality of status, and the somewhat different, but not unimportant, corollary that, though there is equality of status, that must be associated with some differentiation of function. That is all I have to say about what I may call the formal side of this great development.

I should like to say something upon a side that is in some respects far more important. Call it moral, emotional, sentimental, historical, or what you will, I mean that we should look at this problem from the standpoint of those who look behind and look in front, and who try to forecast the future of that great institution to which formal expression was given in December last.

You may ask me whether, having roughly explained what I conceive to be the Constitution of the self-governing portions of the Empire, I think it the best possible Constitution that could be contrived. The question is, in my opinion, an idle question, because the Constitution now formally declared is absolutely the only Constitution which is possible if the British Empire is to exist, and we need not argue whether it would not be better to have a central authority, whether some means of coercion in extreme cases ought not to be contrived.

All this Constitution-mongering is utterly out of place when you are dealing with the natural growth of the British Empire, and when you remember that that Empire is scattered in fragments in every part of the habitable globe. It was possible for the framers of the American Constitution to give State rights and to combine with maintenance of State rights a central authoritative Government. But America, large as she is, is on one continent. We are scattered in every continent, and it would be quite impossible for us in any sense to copy or to imitate the great work that was done by the English-speaking inhabitants of North America after the separation from the mother country.

I myself, however, do not regard the absence of a central authority with the kind of fears that assail those who are brought up upon legal considerations, and who put emotional considerations on one side. I do not, of course, deny the importance of central authorities where you can have them. I should like to feel that every person of British blood should consult in some Chamber, through his immediate representatives, with regard to everything affecting the Empire, but that you cannot do and never will be able to do. I will not admit, however, that though we are deprived of that great advantage, we must inevitably describe ourselves as having to be content with the second best.

You may ask if I am not exaggerating the power of sentiment as a binding force. Remember, my imaginary critic might say, that some of the memories of some of

our great Dominions are not entirely connected with matters in which there has been no controversy between this country and their predecessors. If memory is to be the foundation of your future greatness, are your memories always so satisfactory that they will supply a solid foundation for such a future? Well, I am a Scotsman addressing Scotsmen, and I feel, therefore, peculiarly qualified to speak on this subject. I maintain, and I appeal to the history of my country to show that I am right, that these different traditions can well be united in one whole; that, although these different streams which have met together to make our kingdom and our Empire may have flowed from different sources, none of them need feel that that difference destroys the unity of the stream which has resulted from their coalescence. I absolutely refuse to allow any man, be he English or be he Scottish, to rob me of my share in Magna Charta and Shakespeare because of Bannockburn and Flodden. What we have done, all can do. We can look back without shame, and we can look forward with unbroken hope.

Personally, I hazard what some may think the paradoxical opinion that this creation of the British Empire is the final crown of the endeavours, the half-conscious endeavours, which we in these islands have made for centuries. All our greatest work has been, as it were, done unconsciously, done not in the spirit of system-makers, but in the spirit of dealing from moment to moment with the necessities of the moment. The English, without really knowing what they were doing, invented Parliaments. The Scottish, without really knowing what a lesson they were giving, were the first to show what democratic patriotism could do in the very height of the Middle Ages and the feudal system. The subjects of George III, when they had thrown off allegiance to the British Crown, set themselves to work, and on the basis of the liberties which they had inherited from our common forefathers, built up a Constitution which has shown itself equal to dealing with the unforeseen magnitude of the problems which must face so vast a territory, governed by so energetic a population.

We are the direct descendants and brothers of those who made this great and unique performance. No other nation has done anything like it at all. We, through the force of circumstances, without conscious premeditation, in no character of constitution-makers, find ourselves members of an Empire based on principles hitherto wholly unrecognised in the past, without any example, and yet, I think, in a spirit which looks forward to the future in hope and in belief.

I do not tell you that the task before us is an easy one. I do not tell you, or any of our brother-subjects of the King in other Dominions, that, though this has been laid down in black and white at a Conference in 1926, their labours are over. Their labours are just begun. I would not lay down the positive assurance that the future even of parliamentary institutions, elsewhere or in this country, is absolutely safe. But I do say that the experiment we are trying is a result of a natural development, that it has that great security behind it; and I am confident that the patriotism, common sense, the instinctive looking to the past, and working for the future which have been the characteristic of the English-speaking peoples, are going in the future to bring to a successful issue one of the noblest experiments mankind has ever tried.

STATUTE OF WESTMINSTER, 1931

*LORD BUCKMASTER**House of Lords, 26 November 1931**(83 H.L. Deb., 5 s., 195 ff.)*

[DEBATE on Second Reading of the Statute of Westminster Bill.]

My Lords, this is in my humble judgment a most momentous measure. It is not that its actual terms offend any of the relationships existing between ourselves and our Dominions. It is that it is, as I believe, for the first time, an attempt made to put into the form of an Act of Parliament rules which bind the various component parts of the Empire, and that I regard as a grave mistake. It is to my mind of the utmost importance that you should allow the free independent growth of independent life among all the various elements which together make up our Empire, but that you should avoid as far as possible putting a definition of what the relationships may be into the unyielding form of an Act of Parliament. That is what this Statute has attempted to do. I often think that people make a great mistake in thinking that Acts of Parliament are some kind of panacea for wrongs. They are frequently nothing of the kind. They are often a grievous interference with liberty, though frequently necessary, and in my judgment ought to be avoided whenever possible and wherever we have got anything fluid and living, like the relationships between ourselves and the various parts of our common Empire, we ought to keep it like that and not attempt to put it into a Statute.

I agree that the definitions do not appear to be very irksome or very dangerous, but if you had attempted by any means in your power to put into an Act of Parliament the rules which regulate the Constitution of this country itself, the result would have been disaster of a

most appalling kind. The thing which has made this country grow is that it never has had a written Constitution of any sort or kind, and the consequence has been that it has been possible to adapt, from time to time, the various relationships and authorities between every component part of this State, without any serious mistake or disaster. That is what I think ought to be the ideal aimed at between ourselves and the various other nations which together make up the British Empire.

It is not because of the powers that are conferred upon them that I feel uneasy about this. I do not, and for this reason: everybody knows perfectly well that each one of our great Dominions can take to itself whatever powers it wishes. We are not going to interfere. Nobody believes for a moment that if one of the great Dominions determined to live separately we are going to war. There is an end of it. The thing which binds us together is not an Act of Parliament and not an ultimate resort to force. It is the fact that we have, as between ourselves and them, a bond the strength of which it is quite impossible to realise unless you happen to go there and can feel and test it for yourself. That is what I desire should be continued, and I feel myself uneasy about the attempt to define their powers in this way.

STATUTE OF WESTMINSTER, 1931

LORD PASSFIELD

House of Lords, 26 November 1931(83 *H.L. Deb.*, 5 s., 209 ff.)

[SEE note on No. 111.]

Whilst I respect very much the feelings which have been expressed by several noble Lords as to the importance of allowing the growth of the free and independent life with regard to constitutional matters, and the danger of limiting that growth by the words of a Statute, I want to point out that it is one of the objects of this present Bill to give that freedom. I do not think it is sufficiently noticed that the Act of 1865 [Colonial Laws Validity Act] which this measure practically repeals, whilst it was partly an enfranchising measure conferring freedom upon the responsible Governments of the Colonies, as they were then, to pass their own legislation relating to their own affairs even if it was contrary to British Common Law, yet really did put into the rigid framework of an Act of Parliament the British Constitution on the subject. It laid down specifically that no Statute hereafter made by any one of those Colonies, even in ~~matters~~ which were strictly entirely within their own province, should be valid if it was in contradiction of a Statute of this Parliament applicable to that colony. That was putting into the rigid framework of an Act of Parliament something which I think we are all agreed now had better have been left to free development.

It is a major purpose of this Bill to remove that fetter, to remove the strait jacket, the rigid framework into which the Constitution was put by that Statute of 1865, which I assume would now be regretted by the noble and learned Lord, Lord Buckmaster, by the noble Marquess, Lord Salisbury, and by the noble Lord, Lord Lloyd, all

of whom said that it was a mistake to put into a rigid framework this free and growing Constitution. That was done by our Statute of 1865. It is the purpose of this Bill to remove that fetter, to take the Constitution once more out of the rigid framework, out of the strait jacket, and to leave it free for future growth. That aspect of this measure does not seem to have been noticed. It is that aspect of this measure which caused it to be pressed for by the Dominions—not merely by the Irish Free State, which I do not remember has been very strong on the point at all, not merely by the Union of South Africa, but as strongly as any by the Dominion of Canada, the greatest of all the Dominions, who most strongly object to this Imperial Statute continuing to fetter them in passing legislation applicable only to their own concerns. That is the main reason why this Bill is required—actually to restore freedom to the Constitution and to remove that fetter.

I would point out to those noble Lords who assent with regret—with heartfelt regret—to the passing of this measure that only by a measure of this kind can you give that freedom. Therefore I who want that freedom am heartily in favour of this measure. I do not support it with any regret. I support it because I stand for the freedom of the Constitution and against fettering it by Acts of Parliament as we have done in the past, by Acts of Parliament which actually continue to be in force.

I have said that that Act of 1865 was a fettering Act. Let me point out another fetter which has been imposed and which we seek to remove by this Bill by the giving of extra-territorial jurisdiction, to use the technical term, to the Dominion Parliaments. At the present time a Dominion Parliament cannot secure the necessary legislation in a matter which is distinctly its own concern. Let me give an instance. Suppose the Australian Commonwealth learned that there was a little conspiracy, let us say to forge Australian banknotes, and that that was being carried on on a Pacific island not under the sovereignty of any Power by Australian subjects who had

taken refuge there in order to carry on this forgery of Australian banknotes, and that these people could go back to Australia and if they did not actually utter the forged notes in Australia could not be proceeded against. The Commonwealth of Australia claims that it ought to have power to pass a Statute making these acts, done by Australian subjects for the purpose of actually committing crime in Australia, an offence so that if these people came back to Australia they should be liable to be proceeded against. That is just one instance of the fetters into which we have put the Dominions at present by denying them the power to pass any Act having extra-territorial effect even when it concerns their own subjects and crimes against their own good order and government. It is because of such cases that this Bill is a necessary measure if you want freedom for the Constitution to grow and develop without fetters.

An Act of Parliament can in many cases, I would like to remind the noble Lord, Lord Danesfort, be an instrument of freedom and not necessarily an instrument of restriction. In this case this is an instrument of freedom—to give freedom to the Dominions, and to this country in its relations with the Dominions, to grow and develop without the fetters of an Act of Parliament. As I say I am not only supporting this Bill but I am in cordial sympathy with it. I do not support it reluctantly. Possibly I have had to work through it more than other noble Lords, and I support it cordially, *ex animo*, because I believe the British Commonwealth of Nations cannot be maintained on the basis of legal fetters and Acts of Parliament reaching from one end of the earth to the other. I believe the only security for the British Commonwealth of Nations is the frank and whole-hearted acceptance of the principle of voluntary co-operation in perfect freedom. It is because I take that view that I support this measure.

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